



CENTRAL
EUROPEAN
UNIVERSITY



OPEN SOCIETY
JUSTICE INITIATIVE

HUMAN RIGHTS LITIGATION SUMMER SCHOOL

DETAILED CURRICULUM [PROVISIONAL]

MONDAY 11TH JULY 2011

Sources of Human Rights Law (Rupert Skilbeck)

Objective. This session will ensure that students are aware of the foundational legal standards that support human rights litigation, and the procedure before the major human rights tribunals.

Curriculum. The session will cover:

- Human Rights Treaties
- Non-Treaty and Soft Law Standards
- Customary International Law
- Using Human Rights Law
- The regional tribunals

Method. Welcome and orientation (15) and questions (15); Initial presentation on sources of human rights law (20 mins) and discussion (10).

Pre-reading. Students should review the following chapters before the course.

- OHCHR, *Chapter 2: Universal Human Rights Instruments*, Manual on Human Rights, (2003).
- OHCHR, *Chapter 3: Regional Human Rights Instruments*, Manual on Human Rights, (2003).

Further Reading. The following documents are useful for those interesting in further reading.

- UN, *New Core Treaties* (2007).
- UN, *General Comments Complication Vol.1 and 2* (2008).
- ISHR, *Simple Guide to the UN Treaty Bodies* (2009).
- OHCHR, *Manual of the UN Human Rights Special Procedures* (2006).
- KHRP, *Taking Human Rights Complaints to UN Mechanisms* (2006).
- Global Rights, *Using the Inter-American System* (2004).

- Pretoria University, *Compendium of Key Documents of the African System* (2007).
- KHRP, *Taking Cases to the ECHR* (2006).
- CESCR, *The Nature of States Parties Obligations*, General Comment 3, 5th Sess. (1990).

Legal Drafting (Ben Batros)

Objectives. Students will discuss the process of legal drafting and best practices for drafting human rights filings.

Curriculum. Strategies for effective legal writing

- Stages of legal drafting
- Structuring your document
- Introductions and lead paragraphs
- Presenting the facts
- Drafting legal arguments
- Presenting case law
- Effective review and editing

Method. Presentation on best practices with interactive discussion (60), with discussion of two in-class drafting exercises (2 x 15)

Student Prep. Read and prepare draft answers to the two drafting exercises on Moodle (lead paragraphs; topic sentences).

Pre-reading.

- Pamphlet: Three Approaches to the Drafting Process [includes Betty Flower's *Madman, Architect, Carpenter and Judge* story; Section 1.8 from the *British Bar Course Drafting book*; Pages 42-51 of *The Lawyer's Guide to Writing Well*]
- ECHR Practice Direction on Written Pleadings
- *Chapter 8: Writing the Lead*, *The Lawyer's Guide to Writing Well*
- Review the OSJI outline of the *Ernazarov* brief.

Further Reading.

- *Chapter 9 (Form Structure and Organization) and 11 (Revising your Prose)*, *The Lawyer's Guide to Writing Well*

Public Interest Litigation (James A. Goldston)

Objectives. Participants will obtain an overview of public interest litigation and a clear understanding of when to engage in PIL and what it entails.

Curriculum. This session will cover:

- What is PIL: Definition, history, and review of public interest litigation.
- Case Selection: Including issue choice, finding clients, forum choice.
- Elements of PIL: Including research, evidence, fact-finding, drafting, ethics, campaigning, advocacy, communications, client care
- Preparation and Planning: completing a case assessment checklist and an action plan.

Method. Presentation (40) and discussion (20); presentation by students of case studies (60).

Student Prep. Students will be asked in advance of the course to prepare a case study of an example of PIL that they have been involved in, and to complete a case assessment checklist for that case.

Pre-reading.

- Interights, *Chapter 2: Strategic Litigation and Case Selection*, Strategic Litigation under the Race Directive, (2004).
- Interights, *Chapter 4: Strategic Litigation in Practice*, Strategic Litigation under the Race Directive, (2004).
- James A. Goldston & Mirna Adjami, *The Opportunities and Challenges of Using Public Interest Litigation to Secure Access to Justice for Roma Minorities in Central and Eastern Europe* (2008).

Further Reading.

- PILI, Strategic Litigation: Bringing Lawsuits in the Public Interest, Chapter 3.
- Richard B. Bilder, *An Overview of International Human Rights Law*, Guide to International Human Rights Practice.
- Global Rights, *Promoting Justice* (2001).

Library Tour

Objectives. To ensure participants are aware of the library facilities available at CEU during the course. All participants should plan to attend.

TUESDAY 12TH JULY 2011

Advocacy (Iva Dobichina)

Objectives. The skills and tactics necessary to develop political advocacy (lobbying) for more effective litigation.

Curriculum.

- Briefing papers Identifying leverage, targets and messengers.
- UN Advocacy: the Human Rights Council and beyond.
- Advocacy in the European Union.

- Advocacy in the African Union.

Pre-reading.

- Fenton Communications, *Now Hear This: The Nine Laws of Successful Advocacy Communications*

Further Reading.

- Center for Community Change, *How to Tell and Sell Your Story : A Guide to Media for Community Groups and Other Non-Profits.*
- The [Strategic Communications Resource Library](#)
- [Periodic Table of Visualization Methods](#)
- Paul Smith, Chris Berry & Alan Pulford, *Strategic Marketing Communications* (1997).
- ActionAid, *Critical Webs of Power and Change: Resource Pack for Planning, Reflection and Learning in People-Centered Advocacy*, Johannesburg (2005).
- Bakewell, O.; Adams, J.; and Pratt, B., *Sharpening the Development Process: A Practical Guide to Monitoring and Evaluation*. Intrac Praxis Guide No. 1 (2003).
- Cohen, David; de la Vega, Rosa; and Watson, Gabrielle, *Advocacy for Social Justice: A Global Action and Reflection Guide*, Virginia: Kumarian Press, (2001).
- Open Society Institute Local Government and Public Service Reform Initiative, *Writing Effective Public Policy Papers*, Budapest, (2002).
- Effective Policy Advocacy, December 2009. AED
- Save the Children. *Advocacy Toolkit* (2007).
- WaterAid. *The Advocacy Sourcebook*.

Further Resources.

- Advocacy guide: [Tools for Digital Advocacy](#)
- Advocacy Policy Planer: [An advocacy and policy change](#)
- Framing public issues. [Frameworks institute](#)
- Organizing [tools](#)
- Quick and Easy [Guide to Online Advocacy](#)

Campaigning (Iva Dobichina)

Objectives. Awareness of how campaigning can contribute to a change, how to generate and utilize a campaign, and examples of what works and doesn't in their region/field.

Curriculum. Campaigning strategies to generate public action and awareness

- Developing networks
- Developing coalitions

- Defining & Branding a campaign
- Generating action
- Sustaining Momentum
- Utilizing pre-existing structures
- Best practices

Student Prep. Be prepared to share a least one campaigning example that they have been involved with or have seen in their city/country/region (both successes and failures)

Pre-reading.

- Chris Rose, *Change the world: [a twelve-step programme](#)*
- Chris Rose, 12 Basic Guidelines for Campaign Strategy

Further Reading.

- Chris Rose, *VBCOP – A Unifying Campaign Strategy Model*
- Chris Rose, *How to Win Campaigns: 100 Steps to Success (Second Edition)*
- Chris Rose, *Was that the Golden Age of Pressure Groups?*
- Chris Rose & Pat Dade, *Using Values Models*
- Amnesty International, *Campaigning Manual*

WEDNESDAY 13TH JULY 2011

Constitutional Claims, Domestic Remedies and Admissibility (Renate Uitz)

Objectives. Students will review the best ways to make constitutional claims in domestic courts when trying to litigate human rights cases, and examine the rules for admissibility.

Curriculum. This session includes:

- Making Human Rights Claims in Constitutional Courts
- Standing: NGO claims, group claims, victim status
- Exhausting Domestic Remedies: delay, ongoing violations
- Other admissibility criteria

Method. Presentation (40) followed by discussion of case studies submitted by students (50).

THURSDAY 14TH JULY 2011

Evidence Workshop (Rupert Skilbeck)

Objectives. Review of best practices for collating and using witness and documentary evidence. Covers how evidence can be used to support a human rights case, and the options available to a human rights activist.

Curriculum. The session will cover:

- Forms of evidence that have been accepted in different tribunals
- Sample witness statements and affidavits
- Human rights reports in support
- Statistical evidence
- Monitoring and research
- Client evidence
- Medical evidence
- Empirical testing

Method. Presentation on documentary evidence (20) and discussion (10). Presentation on taking witness statements (20) and exercise (40).

Pre-reading.

- EHRAC, Guide to taking a witness statement.
- IBA, Guidelines on International Human Rights Fact-finding (2009).

Further reading.

- Diane Orenlicher, *Bearing witness: The Art and Science of Human Rights Fact Finding*, 3. HARV. HUM. RTS. J. 83, 83-135 (1990).
- FORUM-Asia & Union for Civil Liberty, Handbook on Fact Finding and Documentation of Human Rights Violations.

Human Rights Research Workshop (Michael Hamilton)

Objectives. To build participants' skills in conducting legal research in support of human rights litigation.

Curriculum. How best to use the available texts and internet sources for human right research, including:

- Useful texts and online resources for finding human rights case law and other documents produced by human rights courts, tribunals, and U.N. treaty bodies
- Guidelines for conducting effective human rights research
- How to identify additional avenues for research

Method. Power point presentation (30 minutes) followed by interactive research exercises (30-45 minutes), and debriefing session (15-30 minutes).

Further Reading. The *Human Rights Research Guide* distributed in class.

FRIDAY 15TH JULY 2011

Ethics (Károly Bárd)

Objectives. Workshop addressing the ethical issues encountered in strategic human rights litigation through a discussion of relevant standards and practical problems that arise.

Curriculum. The session will cover:

- Client care, including the professional duties of zealous advocacy, communication, and confidentiality of information
- Duty of diligence and record-keeping
- Ethical standards for counsel appearing before international human rights courts & tribunals
- Conflicts of interest in strategic litigation; lawyering for a cause and for a client

Method. Moderated discussion with hypothetical scenarios.

Pre-reading.

- International Bar Association, *International Code of Ethics* (1998).
- Hague Principles on Ethical Standards for Counsel Appearing before International Courts and Tribunals (2010).

Further Reading.

- Jenia Iontcheva Turner, *Legal Ethics in International Criminal Defense* (2010).
- Benedict Kingsbury, *Representation in Human Rights Litigation* (2000).

Presentation Resources. Guide for the facilitator; hypotheticals for discussion.

International Remedies and Implementation (Ben Batros and Rupert Skilbeck)

Objectives. Students build awareness of the importance of requesting proper remedies, and the challenges of implementation.

Curriculum. Available remedies/judgments and issues of implementation

- Types of remedies that can be ordered
- Damages awards
- International models of implementation

- Domestic models for implementation, including legislative, judicial, political, ombudsperson.
- Strategies to promote implementation.

Method. Presentation on Remedies (20) followed by student discussion based on case studies (25); presentation on implementation (20) followed by student discussion (25).

Pre-reading

- OSJI, *From Judgment to Justice*, Executive Summary (2010)
- Interights, *Bulletin* (December 2010).

Further Reading.

- Richard B. Bilder, *Implementing Human Rights: An Overview of NGO Strategies and Available Procedures*, Guide to International Human Rights Practice.

Media and Communications (Rachel Hart and Will Cohen)

Objectives. Students develop skills in the different components of a media strategy and how to effectively communicate. Students will have a chance to practice and analyse media skills, focusing on how to effectively communicate on camera.

Curriculum. How NGOs can harness the power of the media to bring attention to a cause.

- Why communications is important for strategic litigation
- Components of a media strategy (Will use a Justice Initiative case as example; handout will be provided)
- Messaging
- Communications outputs
- Speaking to the press (Group Work)

Student Prep. Pre-reading only

Pre- Reading.

- Open Society Foundations, *Media Guide* (2009).
- Open Society Foundations, *Web Style Guide* (2010).

Evaluation and Closing (Rupert Skilbeck and Zaza Namoradze)

Students complete survey and discuss in small groups what they gained during the course and what feedback they have for OSJI/presenters.

SPECIALIST SEMINARS

Two sessions will take place concurrently each afternoon from 2 pm to 4.30pm. Students are asked to select three seminars in order of preference. Very effort will be made to timetable the seminars so that students can attend the seminar chosen.

Seminar A: Citizenship & Statelessness (Maxim Ferschtman)

Objectives. Overall awareness of Statelessness issues & specific issues/ways to address them.

Curriculum. The linked problems of statelessness the need to demonstrate citizenship.

- What is citizenship
- What is statelessness
- International Standards
- Case studies

Method. Initial 45 min presentation followed by discussion of case studies

Pre-reading. Participants in the seminar should review the following documents in advance.

- OSJI Factsheet on sources of law and case-law relating to citizenship and statelessness.
- Laura Bingham, Julia Harrington Reddy & Sebastian Kohn, *De Jure Statelessness in the Real World: Applying the Prato Summary Conclusions*, Open Society Foundations (2011).
- Jaap E. Doek, *The CRC and the Right to Acquire and to Preserve a Nationality* (2006).
- UN Human Rights Council-Report of the Secretary General, *Human rights and arbitrary deprivation of nationality* (2009).

Further Reading.

- Eva Ersbøll, *Briefing Paper: Prevention of Statelessness*, European Parliament (2007).
- The Equal Rights Trust, *Legal Working Paper: The Protection of Stateless Persons in Detention under International Law*, Stateless Persons in Detention Project (January 2009).
- Bronwen Manby, *International Law and the Right to a Nationality in Sudan*, OSF (2011).
- Bronwen Manby, *The Struggle for Citizenship in Africa*, OSI (2009).

Seminar B: Freedom of Information & Expression (Darian Pavli)

Objectives. Promoting the right of access to information, and protecting the rights of journalists and others whose freedom of expression is attacked.

Curriculum.

- Use of Freedom of Information requests by human rights lawyers
- examples of documents that have been obtained in different countries in various subject areas

- the way that such claims can be framed
- the legal options that are available to challenge a refusal to give out information.
- the ways that media groups and NGOs can rely on human rights to protect their work
- the main ways in which attacks against journalists can be litigated in the international arena.

Pre-reading. Students should review the following documents before the seminar.

- Overview of global free expression guarantees (Art 19 ICCPR, Art 13 Am.CHR, Art 10 EuroCHR, Art 9 Afr.CHR) (comparative chart will be distributed ahead of the session)
- Ronan Ó Fathaigh and Dirk Voorhoof, *Recent Developments in Article 10 ECHR Case-law* (2010).
- Eduardo Bertoni, *The Inter-American Court of Human Rights and the European Court of Human Rights: A Dialogue on Freedom of Expression Standards* (EHRLR, 2009)
- Justice Initiative et al, third-party [brief](#) in *Pauliukiene v. Lithuania* (2009) and [case summary](#).
- Stijn Smet, [Freedom of Expression and the Right to Reputation: Human Rights in Conflict](#) (2011) (summary of argument is available at: <https://inform.wordpress.com/2011/05/13/freedom-of-expression-and-the-right-to-reputation-human-rights-in-conflict-stijn-smet/>)
- Justice Initiative, third-party [brief](#) in *Bubon v. Russia* (2010)(pdf, 10pp), and [case summary](#); see also *Claude Reyes v. Chile* (2006) [case summary](#).

Further reading

- Stavros Tsakyrakis: [Proportionality: An Assault on Human Rights?](#) (2008).
- Monica Macovei, [Handbook on Article 10 ECHR](#) (2004).

Seminar C: Torture and Deaths in Custody (Rupert Skilbeck)

Objectives. This session will review the legal standards that apply in cases involving torture and deaths in custody, and examine examples of litigation in different situations that arise in practice.

Curriculum. The latest legal developments for Torture and the strategies and tactics that work

- Legal standards against torture
- Definition of torture
- Safeguards that prevent torture.
- The investigative duty: Prompt, Impartial, Effective.
- Non-legal initiatives that work
- Pressure points that are effective in bringing an end to torture

Method. Initial presentation on legal standards (20); presentation and case study discussions on types of cases.

Pre-reading.

- Aisling Reidy, *The Prohibition of Torture: Article 3 ECHR*, Council of Europe (2002).
- UN Professional Training Series, *Istanbul Protocol* (2004).

Further Reading.

- OMCT Handbook, *African System*
- OMCT Handbook, *Inter-American System*
- OMCT Handbook, *European System*.
- OMCT Handbook, *UN System*.
- Amnesty International, *Combating Torture: A Manual for Action* (2002).
- Amnesty International, *Monitoring and Investigating Deaths in Custody* (2000).
- APT, *Torture in International Law* (2008)
- APT, *Article 3 ECHR* (2002)
- Interights, *Manual for Lawyers: Article 2 ECHR* (2008).
- Interights, *Manual for Lawyers: Article 3 ECHR* (2006).
- Conor Foley, *Combating Torture: A Manual for Judges and Prosecutors*, University of Essex (2003).
- Camille Giffard, *The Torture Reporting Handbook*, University of Essex (2000).
- Kate Thompson and Camille Giffard, *Reporting Killings as Human Rights Violations*, University of Essex.

Seminar D: Litigating Arrest Rights (Marion Isobel)

Objectives. Students will be made aware of recent developments in the protection of rights of people accused or suspected of crimes, and how strategic litigation can be used to effectively litigate for change in their home countries.

Curriculum. The workshop will cover the following:

- Recent developments in arrest rights and early access to a lawyer
- The various sources and standards of arrest rights: UN Standards; ICCPR; Human Rights Commission; European Convention and Court; Inter-American and African systems; European Commission Roadmap; Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- The practical implementation of arrest rights and early access to a lawyer
- A review of the varying levels of protection provided around the world

- Using strategic litigation domestically and internationally
- Case studies on how litigation has been recently used in various European countries

Method. Presentation and discussion (80); case studies (30); student presentations (20), exercises (20)

Student Prep. Before the Summer School commences, participants will be requested to fill out a short questionnaire on the right to early access to counsel in their country.

Pre-reading.

- OHCHR, *Chapter 5: Arrest Rights and Pre-Trial Detention*, Manual on Human Rights (2003).
- Bundle of Key Provisions on International Standards of Arrest Rights
- ECHR Factsheet, *Police arrest / assistance of lawyer* (February 2011).
- Case Brief of *Salduz v Turkey* (2008) Application No. 36391/02 ECHR
- Reference Sheet for Sources of Arrest Rights

Further Reading. The following documents are recommended for more in depth reading.

- *Chapter 2, Effective Criminal Defence in Europe.*
- *Executive Summary, Effective Criminal Defence in Europe.*
- Resolution of the Council of the European Union on a Roadmap for Strengthening the Procedural Rights of Suspected or Accused Persons in Criminal Proceedings
- Association for the Prevention of Torture Legal Briefing Series, “The Right of Access to Lawyers for Persons Deprived of Liberty”.
- Link to Legal Aid Reformers’ Network (LARN) website for further resources: www.legalaidreform.org

Presentation Resources. Powerpoint presentation on arrest rights.

Seminar E: Discrimination (Jim Goldston/Maxim Ferschtman)

Objectives. Broaden knowledge of various aspects of discrimination. What does litigation against discrimination entail? Exchange of knowledge and experience in various legal systems

Curriculum. Seminar using specific cases to discuss:

- International standards
- Direct and indirect discrimination
- Evidence in support of discrimination
- Grounds of discrimination
- Comparators
- Burden of proof
- Litigation in Europe under the Gender Equality Directive and the Race Equality Directive.

- Litigation against discrimination before the European Court of Human Rights using Article 14 and Protocol 12.
- Litigation against discrimination before the UN HRC and UN CERD
- Use of soft law processes to develop UN standards

Method. Initial 45 min presentation followed by discussion of case studies.

Pre-reading.

- *Handbook on European non-discrimination law, FRA, ECtHR,*
- *Non-Discrimination in International Law: A Handbook for Practitioners, Interights 2005*
- James A. Goldston, *The Struggle for Roma Rights: [Arguments that Have Worked](#)*, Human Rights Quarterly, Volume 32, Number 2, (May 2010), pp. 311-325. Available at:
- Jeroen Temperman, *State Neutrality in Public School Education: [An Analysis](#) of the Interplay Between the Neutrality Principle, the Right to Adequate Education, Children's Right to Freedom of Religion or Belief, Parental Liberties, and the Position of Teachers*, Human Rights Quarterly, Volume 32, Number 4, November 2010, pp. 865-897.
- Inter-American Court of Human Rights, *Non-Discrimination*, Annual Report (2010).
- OHCHR, *Chapter 13: Non-Discrimination in the Administration of Justice*, Manual on Human Rights (2003).

Seminar F: Litigating Fair Trial Rights (Karoly Bard, CEU)

Objectives. Strategies for making successful fair trial rights arguments.

Curriculum.

- Witnesses
- Translation/interpretation
- Use of experts
- Equality of arms
- Case file access
- Best practices for preparation of defense
- Right to speedy trial.

Pre-reading.

- OHCHR, *Chapter 6: Fair Trial (Investigation to Trial)*, Manual on Human Rights (2003).
- OHCHR, *Chapter 7: Fair Trial (Trial to Final Judgment)*, Manual on Human Rights (2003).

Further Reading.

- Amnesty International, *Fair Trials Manual* (1998).