

Can We Enforce Human Rights? (Spring 2024)

Understanding and Evaluating Human Rights Enforcement Mechanisms in Asia

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Class Date/Period: TBD

Classroom(s): TBD

Course Description: A famous law professor once said that “Almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time.” But what happens when they don’t? What systems exist to compel states to uphold their international human rights obligations? This upper-level course will survey the global human rights landscape, from Eastern and Western philosophical and normative underpinnings, as well as a thorough examination of United Nations human rights enforcement mechanisms, including the Universal Periodic Review (UPR). This interdisciplinary course will introduce case studies from broader Asia as evidence of state compliance. Reading and lecture material will come from a variety of academic and legal disciplines as well as reports from major international organizations. This course is challenging. It is useful for those seeking internships with the United Nations, or looking toward graduate school in the area of international relations, law, or human rights.

Course Objectives:

This course aims to articulate a number of themes: sovereignty, universality, reciprocity and more. We will analyze several human rights assessment processes as well as an examination of systemic failures. We will consider whether nations can truly enforce human rights as well as an assemblance of justice for victims. Are human rights a set of promises or just mere fantasy? What are the prospects for individual and group rights protection? Are the ideals of an international bill of rights fading with time? This upper-division undergraduate course will review the human rights landscape with specific Asian case studies. By the end of the course, students should be able to:

- **Conceptualizing “universalism” and the history and philosophy of human rights:** What are universal human rights? Do all states conform to a universal normative standard? We will trace the origins of the human rights discourse in both the West and the East.
- **Understanding and Evaluating United Nations Treaty Bodies and the Universal Periodic Review (UPR):** Why do nation states enter into human rights treaties? What are the consequences, commitments or obligations of states who are parties to human rights instruments? How does the UPR help enforce normative behavior on the part of states?
- **Reviewing the Country Context** - Students will review specific case studies to distinguish national human rights challenges and political or socio-economic events that give rise to or exacerbate these challenges. Are they cultural? Are they political? Are human rights challenges the result of religious disputes? What is the capacity of the state to respond to human rights violations?

Classroom, Literature and Materials:

This course combines formal lectures by the instructor with assigned group work and student-led in-class activities. Before each class session, students are expected to have read the assigned reading before coming to class, where participation is both encouraged and expected. Reading newspapers, periodicals and other relevant material is encouraged. Student knowledge and analysis of the assigned material will be tested in class through substantive conversation, group presentations, and periodic exams. Students will also be required to participate actively in small group activities and presentations.

Each session will last 90 minutes, with classes held twice per week. Some classroom time will be allotted to small groups to discuss and prepare for assigned group presentations.

Regular attendance is *not* a requirement for this course, however it is *strongly* encouraged. I believe that life somehow will find a way to interfere with regular classroom activities, from family visits, illnesses, pre-arranged travel, and more. Therefore, my attendance policy is lenient. Use common sense. If you are ill, please do NOT come to class. No official doctor's certificate is required. If you will be absent, please notify me BEFORE class so I can help you when possible with discussions or class plans that you missed.

Course Readings: Readings for this course have been uploaded to [Blackboard](#). No textbook is required.

Course Schedule: (*subject to change*)

An Introduction to Human Rights	
1 -	Course Introduction / Syllabus <ul style="list-style-type: none">❖ Please review the course syllabus, become familiar with Blackboard, access all required course readings and familiarize yourself with the KGU Library.
2 -	Enforcing Human Rights <ul style="list-style-type: none">❖ Koh, Harold (1999) How Is International Human Rights Law Enforced? <i>Indiana Law Journal</i>. 74(4) ★❖ Meyer, K. E. (1999). Enforcing Human Rights. <i>World Policy Journal</i>, 16(3), pp. 45-50. http://www.jstor.org/stable/40209644
The History and Philosophy of Human Rights and the Role of the State	
3 -	History and Philosophy of Human Rights <ul style="list-style-type: none">❖ Whelan, D. & Donnelly, J., (2007) "The West, Economic and Social Rights and the Global Human Rights Regime: Setting the Record Straight," <i>Human Rights Quarterly</i>, 29, pp. 908-949 <p>UPR Presentation Groups Created</p>
4 -	The Universal Declaration of Human Rights (UDHR) <ul style="list-style-type: none">❖ The UDHR (online): http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf (for reference)❖ Waltz, Susan, (2002) Reclaiming and rebuilding the history of the Universal Declaration of Human Rights. <i>Third World Quarterly</i>, 23(3), pp. 437-448 ★

	<ul style="list-style-type: none"> ❖ Ramcharan, B. & Ramcharan R. (2019). <i>Crafting Universal Values: The UDHR Model, Context, and Process. Asia and the Drafting of the Universal Declaration of Human Rights</i>, Palgrave.★
5 -	<p>State Compliance</p> <ul style="list-style-type: none"> ❖ Hathaway, Oona A., (2003). The Cost of Commitment. John M. Olin Center for Studies in Law, Economics, and Public Policy Working Papers. Paper 273. ★ ❖ Hathaway, Oona A., (2007). Why Do Countries Commit to Human Rights Treaties? <i>Journal of Conflict Resolution</i>, 51(4), pp. 588-621
6 -	<p>Class Discussion (#1)</p> <ul style="list-style-type: none"> ❖ With the course readings as a guide, we will discuss the concept of universality, and the utility of human rights treaties as a method of enforcement. ❖ NOTE: Participation in this exercise is critical and will be graded as a part of your Class Participation grade. (see Grading Rubric for details).
UN Human Rights Enforcement Mechanisms	
7 -	<p>United Nations Treaty Bodies</p> <ul style="list-style-type: none"> ❖ United Nations Treaty System, Fact Sheet No. 30, Rev. 1 (for review) ❖ Sarkin, J. (2020) The 2020 United Nations human rights treaty body review process: prioritizing resources, independence and the domestic state reporting process over rationalizing and streamlining treaty bodies. <i>International Journal of Human Rights</i>, pp. 1301-1327. ★
8 -	<p>The Universal Periodic Review (UPR)</p> <ul style="list-style-type: none"> ❖ Chow, J. (2017). North Korea's participation in the Universal Periodic Review of Human Rights, <i>Australian Journal of International Affairs</i>, 71(2), pp. 146-163. ★ ❖ Davies, M. (2010). Rhetorical Inaction? Compliance and the Human Rights Council of the United Nations. <i>Alternatives: Global, Local, Political</i>, 35(4), pp. 449-468. ★
9 -	<p>Thailand's Difficult UPR Processes Under Military Rule</p> <ul style="list-style-type: none"> ❖ Chachavalpongpun, P. (2021). Thailand's Lese-Majeste Law Takes Center Stage at UN Rights Review, <i>The Diplomat</i>. ❖ Cogan, M.S. (2021). Thailand's disappointing UPR highlights the need for reform, <i>Southeast Asia Globe</i>.
10 -	<p>Class Discussion #2</p> <ul style="list-style-type: none"> ❖ With the course readings as a guide, we will discuss the strengths and weaknesses of UN human rights enforcement mechanisms. For this discussion, outside research will be highly beneficial.
11 -	<p>UPR Preparation I</p> <ul style="list-style-type: none"> ❖ This research activity will require significant outside research conducted in assigned groups. Use this class period to ask for assistance or discuss reviewed material among your peers. <p>Reference Sites for Research: UPR-Info: http://www.upr-info.org, The Office of the High Commissioner on Human Rights: http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx</p>

Is China Undermining Human Rights at the UN?	
12 -	<p>Security Narratives and a New International Order?</p> <ul style="list-style-type: none"> ❖ Qin, G. (2023). Following a Chinese Path of Human Rights Development and Contributing China's Strength to Global Human Rights Governance, Foreign Ministry, People's Republic of China. ★ ❖ Larkin, T. (2022). China's Normfare and the Threat to Human Rights, <i>Columbia Law Review</i>, 122 (8), pp. 2285-2322. ★ ❖ Peerenboom, R. (2005), Assessing Human Rights in China: Why the Double Standard?, <i>Cornell Law Review</i>, 38(1), pp. 71-172. (for review)
13 -	<p>China at the United Nations</p> <ul style="list-style-type: none"> ❖ Office of the UN High Commissioner on Human Rights (2021). OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China, Geneva. (for review) ❖ State Response to OHCHR Report on Xinjiang, Permanent Mission of the PRC to the United Nations, 2021. (for review) ❖ Cogan, M. S. (2021). Michelle Bachelet's Spectacular Fall From Grace, <i>The Diplomat</i>. ❖ Piccone, T. (2018). China's Long Game on Human Rights at the United Nations, Brookings Institution, Washington, D.C. ★
14 -	<p>Strategies for the International Order</p> <ul style="list-style-type: none"> ❖ Cogan, M.S. (2023). Great power manipulation riddles United Nations, <i>East Asia Forum</i>. ❖ Oud, M. (2022) Embedding Human Rights in European and US China Policy, <i>German Marshall Fund</i>. ★ ❖ Cimmino, J. (2021). A Strategic Framework for Countering China's Human-Rights Violations in Xinjiang. <i>Atlantic Council</i>.
15 -	<p>Class Discussion #3</p> <ul style="list-style-type: none"> ❖ With the course readings as reference, we will discuss China's human rights strategy in broader Asia and at the UN.
16 -	<p>UPR Preparation II</p> <ul style="list-style-type: none"> ❖ This research activity will require significant outside research conducted in assigned groups. Use this class period to ask for assistance or discuss reviewed material among your peers.
17 -	<p>Evaluation Period / Discussion / Preparation</p>
18 -	<p>Mid-Term Examination</p> <ul style="list-style-type: none"> ❖ The format of the mid-term exam will be announced at a later date on Blackboard.
Cambodia Case Study	
19 -	<p>Restorative vs. Retributive Justice</p> <ul style="list-style-type: none"> ❖ Fawthrop, T. (2017) Cambodia's Khmer Rouge Tribunal: Mission Accomplished?, <i>The Diplomat</i>. ★ https://thediplomat.com/2017/07/cambodias-khmer-rouge-tribunal-mission-accomplished/ ❖ Mydans, S. (2017). 11 Years, \$300 Million and 3 Convictions. Was the

	<p>Khmer Rouge Tribunal Worth It? <i>The New York Times</i>. Ainley, Kirsten (2014) Justifying justice: Verdicts at the ECCC. Justice in Conflict. ★</p> <ul style="list-style-type: none"> ❖ Sperfeldt, C. (2013). From the Margins of Internationalized Criminal Justice: Lessons Learned at the Extraordinary Chambers in the Courts of Cambodia. <i>Journal of International Criminal Justice</i>, 11(5), 1111–1137. ★ ❖ Jasini, R., & Phan, V. (2011). Victim participation at the Extraordinary Chambers in the Courts of Cambodia: are retributive and restorative principles enhancing the prospect for justice? <i>Cambridge Review of International Affairs</i>, 24(3), pp. 379–401. ★ ❖ ECCC Archive: https://www.eccc.gov.kh/en (for reference)
20 -	<p>Human Rights Backsliding in Cambodia</p> <ul style="list-style-type: none"> ❖ Ciorciari, J. D. (2020). Cambodia in 2019: Backing Further into a Corner. <i>Asian Survey</i>, 60(1), 125-131. ★ ❖ Subedi, S. (2014). Report of the Special Rapporteur on the Situation of Human Rights in Cambodia. Report. Office of the United Nations High Commissioner for Human Rights (OHCHR)
21 -	<p>Cambodia’s Human Rights Future</p> <ul style="list-style-type: none"> ❖ Muntarbhorn, V. (2023), Situation of human rights in Cambodia. Report of the ❖ Special Rapporteur on the situation of human rights in Cambodia, A/HRC/54/75. ❖ Lorch, J. (2023). Civil Society between repression and cooptation: adjusting to shrinking space in Cambodia. <i>Journal of Current Southeast Asian Affairs</i>, 42(3), pp. 395-420.
22 -	<p>Class Discussion #4</p> <ul style="list-style-type: none"> ❖ With course readings as a guide, we will discuss Cambodia’s legacy of human rights abuses. For this exercise, some outside research will be helpful.
Regional Human Rights Challenges	
23 -	<p>LGBT Rights in Asia</p> <ul style="list-style-type: none"> ❖ Bunch, C. (1990) Women's Rights as Human Rights: Toward a Re-Vision of Human Rights. <i>Human Rights Quarterly</i>, 12(4), pp. 486-498 ★ ❖ Lau, H. (2020) Courts, the Law, and LGBT Rights in Asia. Oxford Encyclopedia of LGBT Politics & Policy (Don Haider-Markel, ed.) (2020)., Oxford Research Encyclopedia of Politics (2020)., UNC Legal Studies Research Paper, https://ssrn.com/abstract=3573177 ❖ Weiss, M.L. (2020). Can Civil Society Safeguard Rights in Asia? <i>Asian Studies Review</i>, pp. 1–15.
24 -	<p>Discussion on CEDAW and Women’s Rights in Japan</p> <ul style="list-style-type: none"> ❖ Become familiar with the CRC and CEDAW conventions, available online at: http://www.unicef.org/crc/ ❖ The Global Gender Gap Report 2023, <i>World Economic Forum</i>. (for review) ❖ Oshimo, S. & Cogan, M.S. (2022) “Abe Shinzo Excelled at Foreign Policy But He Failed Women, Badly”. <i>The Diplomat</i>. ★
25 -	<p>Death By Overwork - Karoshi in Japan</p>

	<ul style="list-style-type: none"> ❖ North, S. & Morioka, R. (2016). Hope found in lives lost: karoshi and the pursuit of worker rights in Japan. <i>Contemporary Japan</i>, 28(1), pp. 59-80. ★ ❖ Kanai, A. (2009). Karoshi (work to death) in Japan. <i>Journal of Business Ethics</i>, 84(2), pp. 209-216.
26 -	Online Surveillance and Political Rights in the Asia-Pacific <ul style="list-style-type: none"> ❖ Ambay III, M., Gauchan, N., Hasanah, M. & Jaiwong, N. (2019), Dystopia is now: Digital authoritarianism and human rights in Asia. <i>Global Campus Human Rights Journal</i>, pp. 269-285. https://doi.org/20.500.11825/1575 ❖ Shahbaz, A. (2018). The Rise of Digital Authoritarianism. <i>Freedom House</i>. (for review)
27 -	UPR Preparation III <ul style="list-style-type: none"> ❖ This research activity will require significant outside research conducted in assigned groups. Use this class period to ask for assistance or discuss reviewed material among your peers.
UPR Presentations	
28 - 29 - 30 -	UPR Presentations <ul style="list-style-type: none"> ❖ These three classroom periods are designated for UPR Group Presentations. The length of the presentations will be limited to the number of students taking the course.

★ - Priority reading.

Class Etiquette:

- Come to class prepared to learn and engage.
- Tuning out class discussions because you are too tired to learn is counterproductive. If you need a drink of water or need coffee to help maintain focus, do so.
- Cellular phones or other mobile devices must be put on silent.

Learning Assessment/Course Rubric:

Class Participation:	30%
Mid-Term Exam:	20%
UPR Presentations:	30%
Final Exam:	20%

Class Participation (30%): Come to class prepared to engage in discussions. Ask questions. Ask each other questions. Participate in all small group activities. See Rubric below.

Mid-Term Exam (20%): The mid-term exam will feature two (2) short-answer essay questions over required readings, class lectures, and discussions. The exam is cumulative to date.

UPR Presentations (30%): You will be divided into small groups. Each group will give a 45-50 minute presentation on the Universal Periodic Review (UPR) for a country of your choice within continental Asia. UPRs occur every 4.5 years. Your task is to provide a comprehensive analysis of the UPR in that country using information that was provided by the country under review, by civil society organizations, or by national consultations, or through outside research. The focus of your analysis does not need to be broad. What is of concern in one country is less important in another. The treatment of refugees and internally displaced persons remains a challenge for Myanmar, while gender

inequality remains problematic for Japan. All presentations should include significant reference material. A PowerPoint presentation would be helpful. **NOTE:** This presentation is challenging and you will no doubt have additional questions about it. Please review all material on the UPR well ahead of time.

Final Exam (20%): The final exam will feature two (2) short-answer essay questions over required readings, class lectures, and discussions. The exam is cumulative.

The Rubric for Class Participation is as follows:

Attendance	1 point for attendance (no deduction for excused absences, which voids grading) 0 points for an unexcused absence		
Contribution to Group Discussions/Research	<u>0 points:</u> Minimal participation in group discussion or research contribution.	<u>1 point:</u> Some participation in group discussions (required some direction, lack of facilitation).	<u>2 points:</u> Active participation in group discussions, self-directed, led or enhanced discussions.
Individual Contributions	<u>0 points:</u> Minimal or no participation in class discussion or lack of individual research contribution.	<u>1 point:</u> Some participation in class discussions (required prompts, research contribution was minimal)	<u>2 points:</u> Active participation in class discussions (self-directed, relevant research contribution)
Analysis and Critical Thinking	<u>0 points:</u> Critical thinking or analytical or research contribution is absent.	<u>1 point:</u> Some presentation or reference to course material or research contributions, but critical thinking largely absent.	<u>2 points:</u> Strong critical thinking and analysis of course materials (e.g. compare/contrast, questioning, relevant application of concepts & theories)

Classroom Policy Information:

- **Plagiarism** (*the practice of taking someone else's work or ideas and passing them off as one's own*) of any kind will not be tolerated on any exams. If you intentionally copy an article without crediting the source or original author, it is unethical and will be considered cheating. As a rule, I use plagiarism detection software to screen for potential cases. It is in your own best interest to summarize ideas *in your own words*, or use quotes around thoughts or material that is not your own.
- **Syllabus:** I reserve the right to modify the course syllabus at any time, especially if I feel it enhances the learning experience. I will provide advanced warning of any changes.
- **Free Speech/Safe Space:** This course will likely cover difficult topics which will result in a wide range of personal opinions and emotions. It is important to come to class with an open mind and a respect for diversity of opinion. Discrimination, marginalization or other abhorrent behavior based on gender, sex, race, age, national origin, ethnicity, religion, socio-economic status, or sexual orientation will not be tolerated. Violators will be asked to leave the classroom. In this classroom, we respect each other.

Recommended Reading:

Alston, P. (Author), Goodman, R. (Author), Steiner, H. (ed), *International Human Rights in Context: Law, Politics, Morals*, (3rd edn, OUP 2007).

Baderin, M. and McCorquodale, R. (eds), *Economic, Social and Cultural Rights in Action*, (OUP 2007).

Breyer, S. (2015). *The Court and the World: American law and the new global realities*. Vintage.

Brownlie, I. and Guy Goodwin-Gill, *Brownlie's Documents on Human Rights*, (5th edn, OUP 2006).

Dallaire, R. (2009). *Shake hands with the devil: The failure of humanity in Rwanda*. Vintage Canada.

Donnelly, J. (2003) *Universal Human Rights in Theory and Practice*, Cornell University Press.

Easterly, W. (2015). *The Tyranny of Experts*. Basic Books.

Glendon, M. A. (2002). *A world made new: Eleanor Roosevelt and the Universal Declaration of Human Rights*. Random House Trade Paperbacks.

Moyn, S. (2012). *The last utopia*. Harvard University Press.

Nickel, J. (2007) *Making Sense of Human Rights*. Wiley-Blackwell.

Sen, Amartya., (1999) *Development as Freedom*. OUP.

Short, P. (2005). *Pol Pot: Anatomy of a nightmare*. Macmillan.

Strangio, S. (2014). *Hun Sen's Cambodia*. Yale University Press.

White, R. A. (2004). *Breaking Silence: The Case that Changed the Face of Human Rights*. Georgetown University Press.