Irish Centre for Human Rights

School of Law

2024/2025, Semester 1

**International Human Rights Law**

**LW5117**

**Date/Time/Location:** TBD

**Credits:** 10 ECTS (24 teaching hours)

**Lecturer:** Prof Anna Arstein-Kerslake

**Email:** anna.arsteinkerslake@universityofgalway.ie

**Office Hours:** By appointment – contact by email to arrange.

**Aim:**

The course aims to provide students with a general introduction to the sources, systems, and foundations of international human rights law. It also aims to include a critical lens that will give students the skills to apply the law utilising a robust understanding of the origins, impacts, and power of international human rights law.

**Learning Objectives:**

* Be able to conduct effective research in the field of international human rights law.
* Be familiar with the major universal and regional systems of human rights law, their relationships to each other, and the legal value and authority of declarations, decisions, judgments, and other materials generated by them.
* Be comfortable with general concepts of public international law, to the extent that they are relevant in the field of human rights.
* Develop an awareness of the primary areas of concern within the field of international human rights law and other relevant branches of international law, and the ways in which human rights are promoted and protected.
* Understand the critiques of human rights law and be able to critically engage in human rights analysis and debate.
* Begin to apply international human rights law to various minority groups and diverse situations of marginalisation.
* Have the knowledge necessary to begin to utilise international human rights law as a tool to achieve social justice and address issues of unequal power and privilege.

**Teaching Methods:**

Classes will include discussion-based lectures, guest presenters, and small group exercises. The format will vary each week. **Students are expected to have completed all reading prior to class and should be prepared to contribute to discussions.**

**Text:**

[Rhona K.M. Smith, *Texts and Materials on International Human Rights*, 4th Edition (2020 Routledge). [Full text available as an ebook through library website.]](https://www-taylorfrancis-com.nuigalway.idm.oclc.org/books/mono/10.4324/9780429273476/texts-materials-international-human-rights-rhona-smith)

Additional readings as listed below.

**Assessment:**

**20% Reflective essay** (1,500 words), DUE via Canvas

**80% Research essay** (4,500 words, excluding footnotes and bibliography), DUE via Canvas

\*\*\*You MUST have your topic for the research essay approved by the lecturers. **Topic proposals** mustinclude a proposed title and brief outline (500 words max), DUE via Canvas\*\*\*

The **criteria for the assessment of the research essay** are as follows:

Topic and research question

* Is the research question feasible?
* Have the key issues in the research question been identified?
* Is the essay discussion relevant to the research question?
* Is there evidence of reflection on, and application of themes, discussed in class, in so
* far as they are relevant to the essay?

Research

* Has an appropriate range of primary and secondary sources been examined?
* Have up-to-date sources been used?
* Is the research material well understood?
* Is the material relied on authoritative?

Structure

* Does the essay show evidence of planning?
* Does it have a coherent, systematic structure organised around a central argument or arguments?
* Does it have a well-crafted introduction, which sets out the structure of the essay and indicates what your main argument or arguments will be?
* Does it have a well-crafted conclusion?

Analysis

* Does the essay make a point about the law, rather than merely describe the law?
* Does the essay avoid unsubstantiated generalisations?
* Has the research material been analysed for persuasiveness of argument, accuracy?
* Are opposing points of view discussed or otherwise adequately dealt with?

Style

* Is the essay written clearly and concisely?
* Is there appropriate and accurate citation?
* Word length & Style guide
* Does the essay keep to the word limit? Footnotes are not counted in the word count.

Not all of the criteria are of equal weight. Originality will be rewarded.

**Topics:**

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| --- | --- | --- |
| **Week** | **Date** | **Topic** |
|  | 6 Sept | *Orientation week* |
| 1 | 13 Sept | Introducing human rights: History & sources*Lecturer: Prof Anna Arstein-Kerslake* |
| 2 | 20 Sept | Defining human rights: Universality, colonialism, power & privilege*Lecturer: Prof Anna Arstein-Kerslake* |
| 3 | 27 Sept | Controlling states’ actions: Human Rights Instruments & obligations*Lecturer: Prof Anna Arstein-Kerslake* |
| 4 | 4 Oct | Holding power: UN human rights organisations & institutions *Lecturer: Prof Anna Arstein-Kerslake* |
| 5 | 11 Oct | Holding power: Regional human rights organisations & institutions *Lecturer: Prof Anna Arstein-Kerslake* |
| 6 | 18 Oct | Exercising power: Enforcement & monitoring mechanisms *Lecturer: Prof Anna Arstein-Kerslake* |
| 7 | 25 Oct | Marginalisation & Human Rights II: Intersectionality, Race, and Indigenous Peoples*Lecturer: Prof Anna Arstein-Kerslake* |
| 8 | 1 Nov | Marginalisation & Human Rights III: Disability*Lecturer: Prof Anna Arstein-Kerslake* |
| 9 | 8 Nov | Marginalisation & Human Rights IV: Gender, Queer, and LGBTQIA+*Lecturer: Prof Anna Arstein-Kerslake* |
| 10 | 15 Nov | Marginalisation & Human Rights V: Migration and Statelessness*Lecturer: Prof Anna Arstein-Kerslake* |
| 11 | 22 Nov | Rebellious Lawyering: Human rights as a tool for social change*Lecturer: Prof Anna Arstein-Kerslake* |

**Reading Guide:**

*[\*\*\*Links provided to Library, where possible. Readings will also be available on Canvas. Please get in touch with the lecturer if you have any issues accessing the readings.\*\*\*]*

**Week 1 – Introducing human rights: History & sources**

Bates E, ‘History’ in Moeckli D, Shah S, and Sivakumaran S, *International Human Rights Law* (Oxford University Press 2014), 15-33.

[Dembour MB, ‘What Are Human Rights? Four Schools of Thought’ (2010) 32(1) Human Rights Quarterly 1.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_proquest_miscellaneous_743797998&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any%2Ccontains%2CDembour%20MB%20%20%E2%80%98What%20Are%20Human%20Rights%3F%20Four%20Schools%20of%20Thought%E2%80%99%20)

Joseph S and Fletcher J, ‘Scope of Application’ in Moeckli D, Shah S, and Sivakumaran S, *International Human Rights Law* (Oxford University Press 2014), 120-139.

[Smith RKM, *Texts and Materials on International Human Rights* (4th edn, Routledge 2020), **pages 1-28**.](https://www-taylorfrancis-com.nuigalway.idm.oclc.org/books/mono/10.4324/9780429273476/texts-materials-international-human-rights-rhona-smith)

**Week 2 – Defining human rights: Universality, colonialism, power & privilege**

Anghie A, ‘Towards a Postcolonial International Law’ in Prabhakar Singh and Benoît Mayer (eds.), *Critical International Law: Postrealism, Postcolonialism, and Transnationalism* (Oxford University Press 2014), 124-142.

[Kapur R, 'Human Rights in the 21st Century. Take a Walk on the Dark Side' (2006) 28 Sydney Law Review 665.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_gale_infotracmisc_A159614528&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any%2Ccontains%2CKapur%20R%20%20%27Human%20Rights%20in%20the%2021st%20Century.%20Take%20a%20Walk%20on%20the%20Dark%20Side%27%20)

[Mackinnon ES, ‘Declaration as Disavowal: The Politics of Race and Empire in the Universal Declaration of Human Rights’ (2019) 47(1) Political Theory 57.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_cam_dspace_oai_www_repository_cam_ac_uk_1810_284516&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any%2Ccontains%2CMackinnon%20ES%2C%20%E2%80%98Declaration%20as%20Disavowal%3A%20The%20Politics%20of%20Race%20and%20Empire%20in%20the%20Universal%20Declaration%20of%20Human%20Rights%E2%80%99&offset=0)

[Smith RKM, *Texts and Materials on International Human Rights* (4th edn, Routledge 2020), **pages 29-63**.](https://www-taylorfrancis-com.nuigalway.idm.oclc.org/books/mono/10.4324/9780429273476/texts-materials-international-human-rights-rhona-smith)

**Week 3 – Controlling states actions: Human Rights Instruments & obligations**

[Gerards JH, ‘Pluralism, Deference and the Margin of Appreciation Doctrine’ (2011) 17(1) European Law Journal 80.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_crossref_primary_10_1111_j_1468_0386_2010_00540_x&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any%2Ccontains%2CGerards%20JH%2C%20%E2%80%98Pluralism%2C%20Deference%20and%20the%20Margin%20of%20Appreciation%20Doctrine%E2%80%99&offset=0)

[Sheeran, SP, ‘Reconceptualizing States of Emergency under International Human Rights Law. Theory, Legal Doctrine, and Politics’ (2013) 34(3) Michigan Journal of International Law 491.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_proquest_journals_1465503691&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any%2Ccontains%2CSheeran%2C%20SP%2C%20%E2%80%98Reconceptualizing%20States%20of%20Emergency%20under%20International%20Human%20Rights%20Law.%20Theory%2C%20Legal%20Doctrine%2C%20and%20Politics&offset=0)

[Smith RKM, *Texts and Materials on International Human Rights* (4th edn, Routledge 2020), **pages 64-97**.](https://www-taylorfrancis-com.nuigalway.idm.oclc.org/books/mono/10.4324/9780429273476/texts-materials-international-human-rights-rhona-smith)

**Week 4 – Holding power: UN Human rights organisations & institutions**

[Smith RKM, *Texts and Materials on International Human Rights* (4th edn, Routledge 2020), **pages 98-122; 190-217.**](https://www-taylorfrancis-com.nuigalway.idm.oclc.org/books/mono/10.4324/9780429273476/texts-materials-international-human-rights-rhona-smith)

**Week 5 – Holding power: Regional human rights organisations & institutions**

[Dunford RF and Madhok S, ‘Vernacular Rights Cultures and the “Right to Have Rights”' (2015) 19(6-7) Citizenship Studies 605.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_informaworld_taylorfrancis_310_1080_13621025_2015_1053791&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any%2Ccontains%2CDunford%20RF%20and%20Madhok%20S%2C%20%E2%80%98Vernacular%20Rights%20Cultures%20and%20the%20%E2%80%9CRight%20to%20Have%20Rights&offset=0)

[Smith RKM, *Texts and Materials on International Human Rights* (4th edn, Routledge 2020), **pages 123-146; 220-237**.](https://www-taylorfrancis-com.nuigalway.idm.oclc.org/books/mono/10.4324/9780429273476/texts-materials-international-human-rights-rhona-smith)

**Week 6 – Exercising power: Enforcement & monitoring mechanisms**

Ayeni VO, 'Why States comply with Decisions of International Human Rights Tribunals. A Review of the Principal Theories and Perspectives' (2009) 10(1) Nnamdi Azikiwe University Journal of International Law and Jurisprudence 1.

[Hathaway OA, ‘Do Human Rights Treaties Make a Difference?’ (2002) 3 The Yale Law Journal 1935.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_proquest_miscellaneous_39070741&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any%2Ccontains%2CHathaway%20OA%2C%20%E2%80%98Do%20Human%20Rights%20Treaties%20Make%20a%20Difference%3F&offset=0)

[Smith RKM, *Texts and Materials on International Human Rights* (4th edn, Routledge 2020), **pages 148-189**.](https://www-taylorfrancis-com.nuigalway.idm.oclc.org/books/mono/10.4324/9780429273476/texts-materials-international-human-rights-rhona-smith)

**Week 7 – Marginalisation & Human Rights I: Intersectionality, Race, and Indigenous Peoples**

[Kimberlé Crenshaw, ‘Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color’ (1991) 43(6) *Stanford Law Review* 1241-1299.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_proquest_journals_224072872&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Kimberle%CC%81%20Crenshaw,%20%E2%80%98Mapping%20the%20Margins:%20Intersectionality,%20Identity%20Politics,%20and%20Violence%20against%20Women%20of%20Color%E2%80%99%20(1991)%2043(6)%20Stanford%20Law%20Review%201241.&offset=0)

[Uluru Statement from the Heart (2017).](https://ulurustatement.org/#:~:text=The%20Uluru%20Statement%20from%20the%20Heart&text=We%20call%20for%20the%20establishment,truth%2Dtelling%20about%20our%20history.)

[Mark McMillan and Sophie Rigney, ‘The Place of the First Peoples in the International Sphere: A Logical Starting Point for the Demand for Justice by Indigenous Peoples’ (2016) 39(3) *Melbourne University Law Review* (2016) 981-1002.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_rmit_collectionsjats_search_informit_org_doi_10_3316_agis_archive_20171242&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Mark%20McMillan%20and%20Sophie%20Rigney,%20%E2%80%98The%20Place%20of%20the%20First%20Peoples%20in%20the%20International%20Sphere:%20A%20Logical%20Starting%20Point%20for%20the%20Demand%20for%20Justice%20by%20Indigenous%20Peoples%E2%80%99%20(2016)%2039(3)%20Melbourne%20University%20Law%20Review%20(2016)%20981.)

**Week 8 – Marginalisation & Human Rights II: Disability**

[Degener, Theresia, ‘A New Human Rights Model of Disability’ in Valentina Della Fina, Rachele Cera, and Giuseppe Palmisano (eds.), *The United Nations Convention on the Rights of Persons with Disabilities*, 41-59 (Springer, 2017).](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_springer_books_10_1007_978_3_319_43790_3_2&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Degener,%20Theresia.%20%22A%20human%20rights%20model%20of%20disability.%22%20Routledge%20handbook%20of%20disability%20law%20and%20human%20rights.%20Routledge,%202016.%2047-66.&offset=0)

[Kayess, Rosemary, and Phillip French, ‘Out of darkness into light? Introducing the Convention on the Rights of Persons with Disabilities’ (2008) 8(1) Human Rights Law Review 1-34.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_scopus_primary_351336890&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Kayess,%20Rosemary,%20and%20Phillip%20French,%20%E2%80%98Out%20of%20darkness%20into%20light%3F%20Introducing%20the%20Convention%20on%20the%20Rights%20of%20Persons%20with%20Disabilities%E2%80%99%20(2008)%208(1)%20Human%20Rights%20Law%20Review%201-34.&offset=0)

[Flynn, Eilionoir, and Anna Arstein-Kerslake, ‘Legislating Personhood: Realising the Right to Support in Exercising Legal Capacity’ (2014) 10(1) *International Journal of Law in Context* 81-104.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_cambridge_journals_10_1017_S1744552313000384&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,legislating%20personhood%20arstein&offset=0)

**Week 9 – Marginalisation & Human Rights III: Gender, Queer, and LGBTQIA+**

[Hilary Charlesworth, ‘Two Steps Forward, One Step Back? The Field of Women’s Human Rights’ (2014) 6 *European Human Rights Law Review* 560-65.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_thomsonreuters_westlawuk_I88D5E2D07A9211E4AD0E9E95224D3946&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Hilary%20Charlesworth,%20%E2%80%98Two%20Steps%20Forward,%20One%20Step%20Back%3F%20The%20Field%20of%20Women%E2%80%99s%20Human%20Rights%E2%80%99%20(2014)%206%20European%20Human%20Rights%20Law%20Review%20560.&offset=0)

[Matthew Waites, ‘Critique of ‘sexual orientation’ and ‘gender identity’ in human rights discourse: Global queer politics beyond the Yogyakarta Principles,’ (2009) 15(1) *Contemporary Politics* 137-156.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_scopus_primary_449793779&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Matthew%20Waites,%20%E2%80%98Critique%20of%20%E2%80%98sexual%20orientation%E2%80%99%20and%20%E2%80%98gender%20identity%E2%80%99%20in%20human%20rights%20discourse:%20Global%20queer%20politics%20beyond%20the%20Yogyakarta%20Principles,%E2%80%99%20(2009)%2015(1)%20Contemporary%20Politics%20137-156.&offset=0)

**Week 10 – Marginalisation & Human Rights IV: Migration and Statelessness**

[Philippa Duell-Piening, ‘Refugee resettlement and the Convention on the Rights of Persons with Disabilities,’ (2018) 33(5) *Disability & Society* 661-684.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_proquest_journals_2035228794&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Philippa%20Duell-Piening,%20%E2%80%98Refugee%20resettlement%20and%20the%20Convention%20on%20the%20Rights%20of%20Persons%20with%20Disabilities,%E2%80%99%20(2018)%2033(5)%20Disability%20%26%20Society%20661-684.&offset=0)

[Michelle Foster and Hélène Lambert, ‘Statelessness as a human rights issue: A concept whose time has come,’ (2016) 28(4) *International Journal of Refugee Law* 564-584.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_gale_infotrac_483442888&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Michelle%20Foster%20and%20H%C3%A9l%C3%A8ne%20Lambert,%20%E2%80%98Statelessness%20as%20a%20human%20rights%20issue:%20A%20concept%20whose%20time%20has%20come,%E2%80%99%20(2016)%2028(4)%20International%20Journal%20of%20Refugee%20Law%20564-584.&offset=0)

[Siobhan Mullally, ‘Migration, Gender, and the Limits of Rights,’ in Ruth Rubio-Marín (Ed.), *Human Rights and Immigration*, 145-176 (Oxford University Press, 2014).](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_oup_oso_acprof_9780198701170_chapter_5&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Siobhan%20Mullally,%20%E2%80%98Migration,%20Gender,%20and%20the%20Limits%20of%20Rights,%E2%80%99%20in%20Ruth%20Rubio-Mar%C3%ADn%20(Ed),%20Human%20Rights%20and%20Immigration,%20145-176%20(Oxford%20University%20Press,%202014).)

**Week 11 – Rebellious Lawyering: Human rights as a tool for social change**

[Paul R. Tremblay, ‘Rebellious lawyering, regnant lawyering, and street-level bureaucracy,’ (1991) 43 *Hastings LJ* 947.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_webofscience_primary_A1992HZ80500007CitationCount&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Paul%20R.%20Tremblay,%20%E2%80%98Rebellious%20lawyering,%20regnant%20lawyering,%20and%20street-level%20bureaucracy,%E2%80%99%20(1991)%2043%20Hastings%20LJ%20947.)

[Sally Engle Merry, ‘Transnational human rights and local activism: Mapping the middle,’ (2006) 108(1) *American anthropologist* 38-51.](https://search.library.nuigalway.ie/primo-explore/fulldisplay?docid=TN_cdi_proquest_miscellaneous_60301397&context=PC&vid=353GAL_VUJ&lang=en_US&search_scope=PRIMO_CENTRAL&adaptor=primo_central_multiple_fe&tab=local&query=any,contains,Sally%20Engle%20Merry,%20%E2%80%98Transnational%20human%20rights%20and%20local%20activism:%20Mapping%20the%20middle,%E2%80%99%20(2006)%20108(1)%20American%20anthropologist%2038-51.&offset=0)