

Human Rights

Course Information and Syllabus

Tuesday and Thursday
10:00-11:15
NE 111

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I. Office Hours

Office Hours: I will hold office hours as described below *or by appointment* on a first come, first served basis. I hope you will feel free to drop by to talk about the course material, discuss your future academic and professional career, or any other topic of law, international affairs, politics, or history. I usually have my door open but if you find it closed feel free to knock. You may also feel free to email me at the university email address provided.

My office hours for Spring 2019 are:

Monday, Wednesday, and Friday	12:00-14:00
Tuesday and Thursday	12:00-14:00; 16:00-17:00

II. Required Texts

Textbook: We will use two textbooks in this course, which I will refer to as “Carbonell” and “Donnelly”, respectively, in the syllabus below:

1. **Miguel Carbonell**, *Los derechos fundamentales en México* (Porrúa, 6ta ed. 2017).
2. **Jack Donnelly**, *Universal Human Rights in Theory and Practice* (Cornell UP, 3d ed. 2013).

Additional Reading: I will provide additional cases, materials, and other readings as described in the day-by-day portion of the syllabus below. I will either provide all such materials physically in class or give you a link to a website in the syllabus.

III. Course Overview

After the Second World War and the “barbarous acts which . . . outraged the conscience of mankind,” the countries of the world came together to develop and encode a series of basic rights that would apply equally to all human beings across the globe. These rights, which were deemed essential not just to human subsistence but also to live a life of dignity and fulfillment, would apply to all humans not on the basis of citizenship, sex, race, religion, or any other form of distinction, but merely by virtue of being born a member of our species. Those rights would be universal, inalienable, indivisible, interdependent, and progressive. These principles, enshrined in the non-binding Universal Declaration of Human Rights of 1948, continue to inform our understanding of human rights today. Supplemented by binding treaties such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, as well as the regional systems (the European and Inter-American human rights systems are especially salient), the Universal Declaration is the bedrock of the postwar human rights framework.

While modern international human rights—in both law and theory—have their basis in the Universal Declaration, some of the basic ideas underlying that document, including the notion of the rule of law, have their foundations centuries earlier. From the Magna Carta of 1215 to the U.S. Bill of Rights of 1791 and the French *Déclaration des droits de l'homme et du citoyen* of 1789 to the Spanish *Constitución de Cadiz* of 1812, humans have long recognized that there are certain rights that individuals inherently have—but that also must be enshrined in law in order to be able to exercise them against a government. The writings of Hume, Rousseau, Locke, and especially Immanuel Kant have also shaped and informed our ideas about the state of nature, the social contract, and most importantly for this course, the concept of “natural rights”.

In the Mexican context, both the current and previous constitutions draw heavily upon the thinking of both the Anglo-American world (as reflected in the constitution of the United States) as well as that of continental Europe (through the *Constitución de Cadiz*, which was itself heavily influenced by the *Déclaration des droits de l'homme et du citoyen*). The current Mexican Constitution, promulgated in 1917, speaks specifically of the concept of individual guarantees protected by the Constitution, which has led to the development of a three-way distinction between human rights (*derechos humanos*), fundamental rights (*derechos fundamentales*), and individual guarantees (*garantías individuales*). Such distinctions, while not used in the parlance of international human rights, can be found in national legal systems across the globe, including in France and Germany. While the term human rights has come to be seen in Mexico as applying to a more nebulous, theoretical set of rights, fundamental rights are a subset of human rights, specifically, those enshrined in the Mexican Constitution and other laws. Finally, individual guarantees represent the theoretical and practical means provided by the Constitution that allow people to enforce those rights against the government.

How these rights apply to people in Mexico and around the world are the topic of this course. We will seek to understand what these rights are (in both the Mexican context and the global one), how they develop, and how they can be applied. The international and domestic bodies that seek to protect those rights shall also be covered. Finally, we will also elucidate the shortcomings of the human rights systems—both Mexican and international—and discuss ways these might be improved.

IV. Course Goals

- Goals:
- (1) Learn the history and conceptual theory behind the idea of human rights at the international level;
 - (2) Learn the basic framework of the Mexican and international human rights mechanisms, including the rights protected and the institutions which seek to protect them; and
 - (3) Develop critical reasoning about why human rights are important today and how lawyers can seek to promote them.

V. Course Evaluation

Grading: Your final course grade will be based on three (3) exams and one (1) term paper. The value towards your final grade of each of the exams and the term paper are as follows:

Midterm Exam 1:	15%
Midterm Exam 2:	20%
Final Exam:	30%
Term Paper:	35%

As per university policy, you must earn a **minimum grade of 7.5 out of 10 for the course** in order to pass. Earning less than 7.5 will result in you failing this course.

Exams: Midterm Exam 1 will only include material covered between the beginning of the course and the exam. Midterm Exam 2 will only include material covered after Midterm Exam 1. The Final Exam will include material covered during the entire semester.

Each midterm exam will last the length of one course period (75 minutes). The final exam will last two (2) hours. The dates of the midterm exams are listed in the syllabus below. The date of the final exam is not yet known. I will inform you of the date as soon as the Law Department and the School of Social Sciences set the final exam schedule.

You **will** be allowed to bring your own notes and the course textbooks into the exams. You **will not** be allowed to bring other materials or use the internet during the exam. This means that memorization of the material is **not** the main goal of the course. Instead, the most significant part of your grade on an exam will be **how you apply the law and principles** we learn in this course to the questions and problems you are given, and **how you relate disparate but interconnected concepts** to each other. This means that even if you recite the law back perfectly on an exam, but fail to apply it to the problems presented, you will not receive a good grade.

Term Paper: Your term paper is an important part of your grade in this course and you should take it seriously. It can be on any topic of your choosing related to the subject matter of this course. The term paper must be at least **fifteen (15) pages, double spaced, Times New Roman, 12-point font, one (1) inch margins**. It must contain **at least ten (10)** appropriate

academic citations, which are to be completed in a **Chicago Style, author-date format** (including a bibliography).¹

While there is a scheduled meeting with the professor to discuss your paper (explained below), you may wish to discuss your work with the professor at any point during the process of writing your term paper but before turning in your final product.

To help you develop the best possible paper over the course of the semester, you will have various deadlines along the road to turning in your final term paper. These are not intended as an annoyance, but rather are intended to make sure you are making steady progress on your research and writing, and that your work complies with the course requirements. Moreover, having small, more frequent assignments has been pedagogically proven to increase learning.

Each of the written assignments related to your term paper will be worth a portion of the final grade on your paper. I will provide **guidelines** for each, including a written **rubric** for the Draft and Final Paper components. The assignments related to your term paper are:

Topic:	5%
Outline:	10%
Draft:	25%
Final Paper:	60%

Topic: By the end of **Week 2** (Thursday, January 24, 2019) you must submit a topic for your term paper along with a paragraph explaining the idea behind it.

Outline: By the end of **Week 5** (Thursday, February 14, 2019) you must submit an outline of your term paper. You must also submit a bibliography of at least five (5) **academic or primary** sources you plan to use.

Draft: By the end of **Week 11** (Thursday, March 28, 2019) you must submit a full draft of your term paper for review. This means that it should be well developed and **close to the final product** you will turn in. The draft is an important part of successfully completing your term paper, so I encourage you to take it seriously. By having completed substantial work on your draft by Week 11, you will also have less work to do later as exams approach. I will return the paper to you by the beginning of Week 13 (Tuesday, April 9, 2019) with comments and suggestions for how to improve your work.

Meeting: During the course of **Week 13** (Monday, April 8, 2019, to Friday, April 12, 2019) you must have a meeting with the professor to discuss your draft. The purpose of this meeting is to make sure that you are on track to

¹ A guide to the Chicago Style, author-date format can be found here: https://www.chicagomanualofstyle.org/tools_citationguide/citation-guide-2.html.

complete a successful paper by the deadline. You should come to the meeting prepared to talk about the professor's comments on your draft. Having the draft and the meetings due before Spring Break will allow you to work on your paper during that break. The specific times for these meetings will be set by the professor during class.

Final: The final term paper is due by the end of **Week 16** (Friday, May 10, 2019). Late papers will not be accepted, and you will receive a zero (0) for the entire assignment. No exceptions will be made absent an extraordinary circumstance, such as a medical emergency. Such extraordinary circumstance must be properly documented, and exceptions will be granted at the professor's sole discretion.

VI. Reading, Attendance, and Participation

Reading: All readings for the course are assigned in the syllabus below. You are expected to do all of the readings **prior** to each class and doing so will allow you to learn the most from our course. I encourage you to do the readings I assign in the order in which they are presented.

Attendance: Attendance will be taken at the beginning of each class period. If you arrive after I have finished taking attendance for the day you will be allowed to sit in for the remainder of the class period but will be marked as absent.

As per university policy, attendance at a **minimum of 85% of classes is required** to pass this course. This means you cannot miss more than **5 of the 32** scheduled class sessions. You will automatically fail this course if you fail to meet this requirement. This does not mean that students are excused from 15% of classes—you should plan on attending every class over the course of the semester. Attendance at over 85% of classes will improve your participation score.

Participation: All students are expected to participate repeatedly over the course of the semester. While participating often is expected, the **quality** of your participation is more important than its frequency. **I reserve the right to raise your final grade by up to 10% based on the quality of your participation.** This means that your grade could be raised by less than 10%, but not more.

As mentioned above, attendance at over 85% of classes improves your participation score. Note that by raising your grade by 10% for good participation I am giving you the chance to earn **10% extra points** in this course.

VII. Classroom Rules

Use of Electronics: The use of electronic devices is generally **not allowed** in the classroom. The term electronic devices includes, but is not limited to, cell phones, tablets, phablets, laptops, smart watches, and cameras of any kind. The use of social media platforms in the classroom is strictly prohibited. I may make certain exceptions to this rule, but they would be for educational purposes only.

Demeanor: While this goes without saying, you should remain silent except when called upon and respect those who are speaker (whether it is me or a fellow student) any time you are in the classroom. Repeated or egregious violations of this rule may result in sanctions.

VIII. Academic Honesty

Academic Honesty: While this goes without saying, **cheating and plagiarism are not permitted** in this class or at the UDLAP generally. Academic dishonesty could lead to automatic failure of the assignment or even the entire course. In the most egregious of cases the university may take further action. Regardless of the sanction imposed upon you, the Academic Department (*Departamento Academico*) will be notified.

You are plagiarizing when you:

- copy and paste material from a source, or use phrases from a source, without using quotation marks and proper citation;
- substitute words in the source but maintain its meaning without citing it;
- borrow ideas from a source without proper citation; and/or
- turn in an assignment written by someone else, in whole or in part.

Syllabus

Right to Revise Syllabus: I reserve the right to revise this syllabus at any time and will promptly notify the class of any changes. It is not a contract set in stone.

Part I: An Introduction to Human Rights

Week 1: Introduction to Human Rights – A Brief Historical Overview, Part I

Tuesday, January 15, 2019

Topic: Syllabus and General Course Introduction

Readings: Syllabus
Donnelly, p. 1-23

Thursday, January 17, 2019

Topic: Non-Western Traditions and the Anglo-American Precursors

Readings: Donnelly, p. 75-86, 121-126.
Justin Fisher, THE BRITISH LIBRARY, “Why Magna Carta still matters today” (2015), Full Document.
<https://www.bl.uk/magna-carta/articles/why-magna-carta-still-matters-today>
Magna Carta (1215), ¶¶ 38-40.
<https://www.bl.uk/magna-carta/articles/magna-carta-english-translation>
English Bill of Rights (1689), Full Document.
http://avalon.law.yale.edu/17th_century/england.asp
U.S. Constitution, Amendments 1-10 (1791), 13-15 (1865-1870), 19 (1920).
<https://constitutioncenter.org/media/files/constitution.pdf>

Week 2: Introduction to Human Rights – A Brief Historical Overview, Part II

Tuesday, January 22, 2019

Topic: Continental European Precursors

Readings: Donnelly, p. 86-92, 126-132
Déclaration des droits de l'homme et du citoyen (1789), Full Document.
http://avalon.law.yale.edu/18th_century/rightsof.asp
Jesús Rodríguez y Rodríguez, *Las declaraciones francesas y universal de los derechos humanos*, in DECLARACIONES DE LOS DERECHOS HUMANOS, 197-217 (Instituto de Investigaciones Jurídicas 1991), Full Document.
<https://archivos.juridicas.unam.mx/www/bjv/libros/1/410/13.pdf>
Constitución de Cadiz (1812), arts. 2-4, 12-13, 371.
http://www.congreso.es/constitucion/ficheros/historicas/cons_1812.pdf
Ernesto Samper Pizano, *La Constitución de Cádiz de 1812 y la independencia iberoamericana*, 8 POLIANTEA 245, 245-58 (2012), Full Document.
<https://dialnet.unirioja.es/descarga/articulo/4784652.pdf>

Thursday, January 24, 2019

Topic: The Universal Declaration of Human Rights

Readings: Donnelly, p. 24-39
¿Qué son los Derechos Humanos?
http://www.cndh.org.mx/Que_son_Derechos_Humanos

Universal Declaration of Human Rights, Full Document (incl. Preamble) (1948)
<http://www.un.org/en/universal-declaration-human-rights/index.html>

Week 3: The U.N. Human Rights Regime

Tuesday, January 29, 2019

Topic: The U.N. System

Readings: Donnelly, p. 161-172, 179-190,
 International Covenant on Civil and Political Rights (“ICCPR”) (1966), Skim Full Document.

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

International Covenant on Economic, Social, and Cultural Rights (“ICESCR”) (1966), Skim Full Document.

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/cescr.aspx>

Thursday, January 31, 2019

Topic: The Philosophical Underpinnings of the U.N. System

Readings: Donnelly, p. 55-75

Week 4: The Inter-American System

Tuesday, February 5, 2019

Topic: The Inter-American Court and the Organization of American States

Readings: American Convention on Human Rights (1969), Preamble, Arts. 1-31, 52-69

<https://www.cidh.oas.org/Basicos/English/Basic3.American%20Convention.htm>

Velasquez-Rodriguez v. Honduras, Ser. C, No. 4, 9 Hum. Rts. L.J. 212 (IACtHR 1988), p. 26-38.

http://www.worldcourts.com/iacthr/eng/decisions/1988.07.29_Velasquez_Rodriguez_v_Honduras.pdf

Contradicción de Tesis 293/2011, Suprema Corte de Justicia de la Nación (2013), p. 54-64.

http://www2.scjn.gob.mx/juridica/engroses/3/2011/4/2_129659_1501.doc

Contradicción de Tesis 293/2011, Suprema Corte de Justicia de la Nación (2013) (Aguilar Morales, Voto Particular en Concurrencia), p. 9-11 (second separate opinion after the majority opinion).

http://www2.scjn.gob.mx/juridica/engroses/3/2011/4/2_129659_1501.doc

Thursday, February 7, 2019

Topic: Catch-Up and Review for the Exam

Readings: None. Review previous reading and come to class prepared to ask questions.

Part II: Human Rights in the Mexican Constitution

Week 5: The Mexican Constitution – The Basic Framework

Tuesday, February 12, 2019

Topic: **Midterm Exam I**

Readings: None. Review for Exam.

Thursday, February 14, 2019

- Topic:* Human Rights, Fundamental Rights, and Individual Guarantees
Readings: Carbonell, p. XLIV-XLVI, 1-14, 44-66
 “México: Eventos del 2017”, HUMAN RIGHTS WATCH (2017), Skim Full Document.
<https://www.hrw.org/es/world-report/2018/country-chapters/313310>

Week 6: The Mexican Constitution, Individuals, and their Rights

Tuesday, February 19, 2019

- Topic:* Categories and Sources of Fundamental Rights
Readings: Carobnell, p. 66-103
 Donnelly, p. 40-45

Thursday, February 21, 2019

- Topics:* Who Has Rights and How Can They Claim Them?
Readings: Carobnell, p. 103-122, 132-153
 Donnelly, p. 1-23

Week 7: The Mexican Constitution and Human Rights Law

Tuesday, February 26, 2019

- Topic:* Human Rights Treaties and the Principle of *Pro Persona*, Part I
Readings: Mexican Constitution, arts. 1, 133, and 103
<http://ordenjuridico.gob.mx/Constitucion/cn16.pdf>
 Suprema Corte de Justicia de la Nación, *Reformas Constitucionales en materia de Amparo y Derechos Humanos publicadas en junio del 2011*, sections titled (1) “Presentación”, (2) “Reforma en materia de Derechos Humanos de 10 de junio del 2011” and (3) “Tratados internacionales de los que el Estados Mexicano es parte en los que se reconocen derechos humanos”.
<http://www2.scjn.gob.mx/red/constitucion/inicio.html>
 José Carlos Rojano Esquivel, *El principio de convencionalidad en México a la luz del derecho internacional*, Universidad Autónoma de Querétaro (2014).
https://www.uaq.mx/investigacion/revista_ciencia@uaq/ArchivosPDF/v7-n1/13Articulo.pdf
Contradicción de Tesis 293/2011, Suprema Corte de Justicia de la Nación (2013), p. 1-70.
http://www2.scjn.gob.mx/juridica/engroses/3/2011/4/2_129659_1501.doc

Thursday, February 28, 2019

- Topics:* Human Rights Treaties and the Principle of *Pro Persona*, Part II
Readings: *Contradicción de Tesis 293/2011*, Suprema Corte de Justicia de la Nación (2013) (Cossío Díaz, Voto Particular en Disenso), Full Document (located immediately following the majority opinion).
http://www2.scjn.gob.mx/juridica/engroses/3/2011/4/2_129659_1501.doc
Contradicción de Tesis 293/2011, Suprema Corte de Justicia de la Nación (2013) (Aguilar Morales, Voto Particular en Concurrencia), p. 1-9 (located immediately following the opinion of Cossío Díaz).
http://www2.scjn.gob.mx/juridica/engroses/3/2011/4/2_129659_1501.doc

Part III: Equality and Freedom in the Mexican Constitution

Week 8: Fundamental Equality

Tuesday, March 5, 2019

Topic: Introduction to Equality (Art. 1, para. 5)
Readings: Carbonell, p. 167-216

Thursday, March 7, 2019

Topic: Equality Between Men and Women (Art. 4)
Readings: Carbonell, p. 216-247

Week 9: Substantive Equality, Introduction to Freedoms, and the Freedom to Teach

Tuesday, March 12, 2019

Topics: Substantive Equality
Readings: Carbonell, p. 270-297

Thursday, March 14, 2019

Topic: Introduction to Freedom
 Freedom from Slavery (Art. 1, para. 3)
 Freedom to Teach (Art. 3)
Readings: Carbonell, p. 297-337

Week 10: Freedoms to Procreate and Work

Tuesday, March 19, 2019

Topic: Freedom to Procreate (Art. 4)
Readings: Carbonell, p. 337-352

Thursday, March 21, 2019

Topic: Freedom to Work (Art. 5)
Readings: Carbonell, p. 352-367

Week 11: Freedom of Speech

Tuesday, March 26, 2019

Topics: Freedom of Speech and Its Limits (Art. 6), Part I
Readings: Carbonell, p. 367-410

Thursday, March 28, 2019

Topic: Freedom of Speech and Its Limits (Art. 6), Part II
Readings: Carbonell, p. 410-432

Week 12: Freedoms of the Press, Assembly, and Association

Tuesday, April 2, 2019

Topic: Freedoms of the Press (Art. 7)
 Freedom of Association and Assembly (Art. 9)
Readings: Carbonell, p. 432-454, 475-492

Thursday, April 4, 2019

Topics: Right to Privacy
Readings: Carbonell, p. 455-470

Week 13: Freedom of Religion

Tuesday, April 9, 2019

Topics: Freedom of Religion (Arts. 24 and 130)
Readings: Carbonell, p. 512-558

Thursday, April 11, 2019

Topic: **Midterm Exam II**
Readings: None. Review for Exam.

Spring Break/Holy Week: No Classes

Tuesday, April 16, 2019

No Class – Spring Break/Holy Week

Thursday, April 19, 2019

No Class – Spring Break/Holy Week

Part IV: Social and Collective Rights

Week 14: The Rights to Education and Healthcare

Tuesday, April 23, 2019

Topic: Introduction to Social Rights
 The Right to Education (Art. 3)
Readings: Carbonell, p. 843-881
 Donnelly, p. 235-238, 241-248, 250-253

Thursday, April 25, 2019

Topic: The Right to Healthcare (Art. 4, para. 3)
Readings: Carbonell, p. 853-899

Week 15: The Rights to Housing, Food, and Water, and the Rights of Minors

Tuesday, April 30, 2019

Topic: The Right to Housing (Art. 4, para. 7)
 The Right to Food (Art. 4, paras. 3, 9)
 The Right to Water (Art. 4, para. 6)
Readings: Carbonell, p. 919-938, 973-997

Thursday, May 2, 2019

Topic: The Rights of Minors (Art. 4, paras. 9-11)
Readings: Carbonell, p. 938-961

Week 16: Collective Rights

Tuesday, May 7, 2019

Topic: Indigenous Rights in Latin America and Mexico

Readings: Carbonell, p. 1021-1063
Donnelly, p. 45-54

Thursday, May 9, 2019

Topic: Catch-Up and Final Review

Readings: Review the readings we have covered over the course of the semester and come prepared to ask questions!

Weeks 17 and 18: Final Exam

The final exam will take place sometime between May 11 and May 22, as per the 2019 Semester Calendar available here: <https://www.udlap.mx/web/comunidad/calendario-escolar.aspx>.

You are expected to be on campus and available for final exams during that entire period. I will inform you of the specific date as soon as the School of Social Sciences and the Law Department determine the Final Exam schedule.