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**Strategic Implications of
Human Rights and Rule of Law
(HR/ROL- 2012)**

17 September – 02 November 2012

SYLLABUS

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Course Introduction and General Description

In the aftermath of the atrocities of World War II, there was increased concern in the social and legal protection of human rights as fundamental freedoms. The foundation of the United Nations and the Organization of American States provided a basis for a comprehensive system of international law and practice for the protection of human rights. However, the Cold War in Latin America hindered the development of human rights in the region. Marxist insurgencies, often employing kidnappings, assassinations, and terrorism, emerged in a number of countries. Military juntas and strongmen held the reins of power throughout much of South and Central America and often responded with extreme brutality.

By the end of the 1980s, the situation had dramatically reversed. Freely elected civilian governments had replaced military rule throughout South America, and progress towards democratic rule had been registered in Central America. Latin America joined the formerly Communist countries of Central Europe as the most notable success stories of the wave of democratic gains that came with the end of the Cold War.

Throughout Latin America and the Caribbean, competitive elections became almost universally accepted and the nascent democracies rapidly ratified international and regional human rights treaties. In theory, any state that embraces democracy is also likely to adopt human rights principles because political participation, competition, and accountability are perhaps the best guarantees that individual freedoms will be preserved. Today, throughout the region, international human rights law – referring to an interlocking system of non-binding conventions, international treaties, domestic law, international organizations and political bodies – is widely accepted as customary law.

Yet even as the countries of Latin America have registered impressive gains for democracy and human rights, old problems and new challenges have surfaced. A number of countries in the hemisphere have experienced an alarming increase in violent crime and an accompanying deterioration in the institutions of law enforcement. Some of these problems can be traced to a persistence of widespread poverty and inequality. Corruption, a longstanding regional problem, also persists at a high level. The result has been a decline in public faith in democracy, deterioration in human rights, and the rise of populist political leaders.

The political response to the public outcry over the wave of crime and violence that grips the region carries its own human rights risks. Military involvement in domestic law enforcement may be a catalyst for a number of political problems, especially in a region with a tradition of interventionism and a history of human rights abuses by state security forces. Additionally, it places military personnel in a situation for which they are not properly trained or equipped: constant contact with the population and the use of minimal force. Such actions also carry a potential cost to the military institutions of the region. Constant reliance on the military to solve internal security problems reduces the political will to make the long term investments necessary to build a functioning civilian security and justice sector.

This situation has serious strategic implications for Latin American and Caribbean nations. Human rights abuses undermine trust, public support, and cooperation, all of which are vital to an effective campaign to restore security. Violations impair the necessary trust to get community collaboration. In fact, they have the potential to turn the populace against the military or police. Without trust, security forces lack access to vital intelligence. In contrast, where citizens have faith in security officials, they are more likely to share information.

In an era of shadowy transnational criminal organizations, trust of the population is a strategic imperative. It enables security forces to get closer to the population, so they can see and hear things that citizens are unwilling to discuss. Additionally, respect for rights is necessary to ensure that any progress in the arena of public security is lasting. Former Secretary of Defense Robert Gates highlighted the need to reconcile human rights and security during his 2009 address at the Halifax International Security Forum: “Strong human rights programs are vital when conducting military responses in complex environments . . . security gains will be illusory if they lack the public legitimacy that comes with respect for human rights and the rule of law.”

In Latin America, respect for rights leads to closer ties between the security forces and community and to increased social support for those forces. Integrating human rights and public security is especially important in those Latin American nations where there is low confidence in the legal system and a history of abuse at the hands of the security forces. The lingering memories of these villainous acts create a relationship between the security forces and society that is fraught with distrust and fear. Trust-building mechanisms, which include respect for the rule of law, are key elements to any strategy to restore citizen security. Where military personnel violate rights, they aggravate the climate of lawlessness and impunity that allows violent criminal organizations to flourish.

International norms that support basic human rights – what one scholar called a “justice cascade” – have become obligatory political fixtures that nations are compelled to follow. Such norms have challenged the historically sacrosanct concept of state sovereignty. Confronted by powerful international institutions, even the strongest supporters of state sovereignty will admit today that no state holds unlimited power to do what it wants to its own people. Consequently, contemporary sovereignty implies a dual responsibility: externally, to respect the sovereignty of other states, and internally, to respect the dignity and basic rights of all the people within the state. In international human rights covenants, in UN practice, and in state practice itself, sovereignty is now understood as embracing this dual responsibility. Such tectonic changes have affected the bedrock of customary international relations. Concepts such as “universal jurisdiction” and “the responsibility to protect,” although not yet customary international law, are challenging the manner in which states have traditionally operated.

These new norms are also retroactive. A nation with a long legacy of human rights abuses is required to address such egregious acts. According to modern democracy scholars, if impunity is allowed to reign, the political system that is being built may be democratic in formal terms, but it will lack the essential ingredient of accountability. If impunity for egregious crimes prevails at this founding stage, what will prevent it from being applied in the present and future

to ordinary violations of law by state agents? The rule of law should not be built on the unacceptable notion that some egregious crimes are forgivable if committed by men in uniform. If impunity pervades the new setting, it makes it harder for present and future generations to have faith in democracy and the rule of law. This presents a considerable “transitional justice” challenge for Latin American nations whose security forces battled communist insurgents with unrestrained abandon.

Addressing transitional justice issues like amnesty, impunity, and reparations for victims create delicate human rights conditions for modern day leaders. However, these are not unique circumstances. The post-WWII tribunals at Nuremberg and Tokyo and the more recent proliferation of tribunals and truth commissions have normalized transitional justice efforts. The recent establishment of a Brazil Truth Commission (October 27, 2011), the repeal of the amnesty for the military in Uruguay (October 27, 2011), and the pending trial of General Efraim Rios Montt in Guatemala are just a few examples. In the wake of the arrest of General Augusto Pinochet for alleged crimes during his 17-year military dictatorship, Chilean Defense Minister Edmundo Perez Yoma described it as a "new attitude" among the military high command: "You deal with it or it will never go away. You have to confront it - that's the changed attitude."

Humanitarian intervention, meanwhile, is perhaps the most dramatic example of the new power of human rights in international affairs. The notion that states could invade the sovereign territory of other states to stop massive bloodshed (be it genocide or ethnic cleansing) was inconceivable until the 1990s. The UN approved interventions in Bosnia and Somalia. NATO took military action in Kosovo and Libya. The Organization of American States blessed the U.S.-led intervention in Haiti. These actions represent the idea that states endorse the principle that morality trumps sovereignty for reasons of human rights.

Finally, a globalized world presents its own human rights challenges outside the realm of national sovereignty. Accountability for transnational criminal organizations or for multi-national corporations that deal in private security present unique dilemmas for national leaders seeking to implement human rights norms inside their borders. Yet there is currently no existing international doctrine on moral requirements of international corporations, especially those that provide private security or defense issues. Should there be one? How can multi-national corporations be held accountable for moral or human rights violations? How can trans-national criminal organizations be held accountable for their crimes? How can such rules be enforced?

In conclusion, a failure to integrate rights and security could undermine democracy and the rule of law in Latin America. Where state actors, including security forces, violate the rights of citizens, the legitimacy of the democratic system is at risk. In particular, human rights abuses undermine the rule of law, a cornerstone of liberal democracy. The rule of law entails the equality of all citizens, including state agents, under the law and predictability in the application of rules and regulations. Security forces must be subject to the principle of legality in a rule-of-law system. Recurrent deployment of troops to the streets has historically led to impunity for corrupt and abusive military

personnel. Without a rule of law to protect human rights, citizens are unlikely to value democracy, and its legitimacy and even survival are at risk.

CHDS' Strategic Implications of Human Rights and Rule of Law (HR/ROL) course is specifically designed to address these complex issues. It is especially suitable for civilian policy makers who work within the military or police organizations. In addition to the issues described in the preceding paragraphs, the course will examine issues such as the use of military force to promote human rights; the development of international criminal courts, truth commissions, and other instruments of transitional justice; the intersection of humanitarian and human rights law, with an introduction to war crimes, crimes against humanity and the specific crime of genocide; advocacy strategies concerning globalization and transnational corporations; and the human rights dimensions of terrorism.

Much of the course emphasis rests on the importance of integrating rights and security. Human rights issues do not go away and citizens in much of Latin America continue to engage with the legacy of repressive military dictatorships. Abuses of the past continue to haunt societies long after they occur, as we see in Argentina, Chile, and Guatemala. Societal divisions have lingered, and the issue remains prominent.

The course will also analyze some of the issues confronting human rights practitioners in Latin America today: how to remember, redress and repair human rights abuses under past authoritarian regimes; how security forces in the region should comport themselves in accordance with international humanitarian law; the rights of indigenous peoples; what the role of the United States has been and should be; what the role of international and national non-government organizations, and how to ensure human rights during armed conflict. The course will analyze numerous case studies including Afghanistan, Brazil, Chile, Colombia, Guatemala, Iraq, Mexico, Peru, and the U.S.

HR/ROL is a 7-week course, mixing on-line and in-residence activities to allow students to analyze and compare different perspectives on Human Rights and the Rule of Law. These subjects encompass activities that are of interest to the countries in exercise of their fundamental obligations to provide security for their citizens. This course aims at examining these interpretations of the issue in their different venues to find commonalities and differences, analyze the implications of such commonalities and differences, and allow for the consideration of these aspects for cooperation initiatives.

The course is divided into three parts. During a 3-week on-line, pre-course distance phase, participants will receive reading material and will engage in discussions aimed at identifying different elements toward Human Rights. During a 2-week in-residence phase at CHDS, participants will engage in an intensive program of lectures, conferences, seminars, case-studies, debates, and readings. During the final 3-week research and writing phase, students will be required to complete a 15-20 page journal-quality research or policy paper.

Course Goal and Objectives

This course is designed to provide opportunities to participants to:

- Understand the strategic implications of human rights and the rule of law in modern societies.
- Understand the philosophical and theoretical foundations of human rights and explore their relevance in contemporary human rights debates.
- Understand the system of international human rights treaties and associated organizations including the United Nations, Inter-American Human Rights Court, and International Criminal Court.
- Consider prevailing trends in the human rights field, its challenges and its criticisms.
- Draw useful conclusions about the roles of various state and nonstate actors in the identification of human rights and in their promotion and enforcement.
- Develop greater knowledge and awareness of the key challenges confronting rights activists and scholars in Latin America, and of their antecedents.
- State challenges in adopting, adhering to, and implementing human rights law.

Course Topics –

A. Human Rights. The inalienable fundamental rights to which a person is inherently entitled. Human rights are conceived as universal and egalitarian. They can be classified into civil and political rights and economic, social, and cultural rights.

B. Rule of Law. Rule of Law refers to the presence of meaningful and enforceable laws where decisions are transparent, fair, and predictable; enforceable contracts that promote business and commerce; basic security with personal safety; protection of individual and property rights; and an independent judiciary that safeguards both; and access to justice with concrete ways to invoke rights and protect them.

In many ways, the Rule of Law is the perception of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence.

C. Laws of War. Laws of war concern justifications to engage in war (*jus ad bellum* or the law of armed conflict) and the limits to acceptable wartime conduct (*jus in bello* or international humanitarian law). The law of armed conflict addresses declarations of war, acceptance of surrender, the treatment of prisoners, military necessity (to include distinction and proportionality) and the prohibition of certain weapons that may cause unnecessary suffering. International humanitarian law (IHL) is the law that regulates the conduct of armed conflicts. It is comprised of the Geneva Conventions and the Hague Conventions, as well as customary international law. It defines the conduct

and responsibilities of belligerent nations, neutral parties, and to protected persons, usually meaning civilians.

- D. Transitional Justice. Transitional justice generally refers to the approaches that states may use to address past human rights abuses including both judicial and non-judicial techniques. In periods of political transitions, from authoritarian, dictatorial regimes or from civil conflicts to a democracy, transitional justice has often provided opportunities for societies to address past human rights abuses, mass atrocities, or other forms of severe trauma in order to facilitate a smooth transition into a more democratic or peaceful future.

Profile of the Participants

Participants in this course are 15-18 senior officials and practitioners with responsibilities in areas related to human rights and humanitarian law, selected from the following sectors:

1. Personnel who work directly on human rights issues for the nation's security forces.
2. Government personnel who work on human rights issues in organizations other than the military or police (e.g., Ministry of Justice, national legislature, military war colleges, etc.).
3. Personnel from civilian organizations with interest in human rights including non-government organizations (NGO), academic institutions, and think tanks.

Special consideration should be given to participants from countries that have armed forces involved in domestic law enforcement or traditional police roles.

Minimum prerequisites or qualifications should include:

- Civilian applicants (government and non-government) must have a minimum of a four-year university or college degree or equivalent work experience.
- Military/Defense Force/Police applicants must be graduates of a Command and General Staff College (CGSC) or equivalent program.

Invited countries will include all Latin American and Caribbean nations as well as participants from the U.S. The course will be taught in Spanish although most of the reading assignments will be in English. Hence, participants need to be proficient in both Spanish (writing, speaking) and English (reading).

Course Development/Methodology

Online Phase (5 Weeks) – 30 Sept - 19 October 2012

The Distance Learning phase of the course lasts five weeks and will be conducted on-line via Blackboard and via email between the professor and the

students. This Distance Learning phase is designed to help the student to acquire, through discussion and comparison, a more nuanced understanding of different interpretations of Human Rights and its associated concepts to include the Rule of Law, the Law of Armed Conflict, and International Humanitarian Law. The first week is dedicated to Blackboard enrollment and student orientation for the course. The second, third, and fourth weeks (24 Sept to 12 Oct) will involve online discussions of some basic concepts of human rights, rule of law, and other components of the course. During the last week, the students will prepare for travel to Washington DC for the in-residence phase.

Resident Phase (2 weeks) – 22 October – 02 November 2012

The course will be conducted at CHDS in Washington DC. Students will be exposed to the theories of Human Rights and will compare different perspectives on the concept. The students will be challenged to analyze complex circumstances related to these themes. Methodology to help students acquiring this knowledge will include lectures, conferences by experts and practitioners, seminars, and case-studies. Themes will be distributed in a way that students develop a deeper understanding of the distinct perspectives toward human rights, and to analyze the complexities of decision-making related to these issues.

Research and Writing Phase (3 weeks) – 05-26 Nov 2012

The Research and Writing phase of the course lasts three weeks and will be conducted on-line and via email between the professor and the students. Students are required to take what they learned in the course to this point and write a journal-quality research or policy paper on a topic related to matters of human rights. This written project is an obligatory part of the course. Top papers will be considered for publication in CHDS's Security and Defense Studies Review journal.

Practical Exercise

The afternoon of day #9 of the course will be dedicated to a practical exercise that will enable the participants to apply the material presented in the course.

Presentations on Perspectives on Human Rights

Each student will make a 15-20 minute presentation followed by 10 minutes of Q&A on (1) the human rights conditions in a Latin American or Caribbean country or on (2) a thematic issue of Human Rights or an associated topic. If analyzing a country, the briefing should focus on the policy and operational approach to human rights taken by that particular nation. The presentations will be made during days #8 and #9 of the course. Subsequently, students will use this material to complete the written report during the post-course distance phase.

Suggested thematic topics on human rights may include but are not limited to:

- What are the theoretical challenges and risks of placing the military “in the streets” to conduct domestic law enforcement? Is this necessary in the current security environment in Latin America? What kind of specialized training is necessary for the armed forces under these circumstances?
- Is a military government preferable to a civilian government? Why? In the current security environment in LA and despite the ugly history in Latin America of military governments, surveys report that citizens prefer military dictatorships to those of civilian elected officials. What are the advantages and disadvantages of each?
- How are indigenous peoples treated in Latin America? How, if at all, is this changing? Is there an emerging movement of indigenous rights in Latin America?
- Amnesty has been offered as part of nearly every post-conflict, transitional justice effort in Latin America. Is this necessary as a means to an ends? In other words, does amnesty contribute to conflict resolution or does it encourage a culture of impunity?
- What should be the message regarding previous human rights abuses in Latin America to the new generation of leaders?
- There is currently no existing international doctrine on moral requirements of international corporations, especially those that provide private security or defense issues. Should there be one? How can multi-national corporations be held accountable for moral or human rights violations? How can it be enforced?
- How can trans-national criminal organizations be held accountable for human rights violations?

Student Written Reports on Perspectives on Human Rights

As part of the 3-week Research and Writing phase, participants will be required to complete a 15-20 page written report on their research by the end of the Research and Writing phase.

Materials, media, and technology

All phases require use of Blackboard, an education software program (provided by CHDS) to facilitate online learning. Personal computers are highly encouraged. Both the Distance Learning phase and the Research and Writing phase require access to computers and internet.

Course Certification

Participants will be granted a Certificate of Completion specifying the number of hours dedicated to each major activity developed during the course.

Course Standards and Grading

Participants will be evaluated through class participation, participation in group exercises, student presentations, and written reports. Additional information and grading rubric is available in the course “Standards of Evaluation” handout which will be made available prior to the start of the course.

Academic Organization

CHDS Director: Dr. Richard Downie
Dean of Academics: Dr. Luis Bitencourt
Course Director: Mr. Pat Paterson
Academic Support: Ms. Suzanne Heist

Discussion Questions and Reading Requirements

Online Phase, 30 September - 12 Oct 2012

Discussion Questions:

- *What are human rights? Be prepared to give a one-sentence definition and defend it.*
- *How do you recognize a human right? Can you list specific attributes of human rights? Are human rights different from “civil rights” or “political rights?”*
- *How can human rights be framed as a “common concern” or as “human dignity?” What are the implications of these and other possible conceptions of human rights?*
- *How do human rights norms develop? When do we know they exist?*
- *How are we to understand enforcement of human rights under international law? Are there other, “extra-legal” ways in which human rights norms are enforced?*
- *Who benefits from human rights? What is the impact on philosophy, politics, specific practices of state and nonstate actors?*
- *What are the possibilities and limitations for human rights as a means of pursuing global justice?*
- *What is the concept of state sovereignty? What is political legitimacy? How do these terms relate to human rights?*

Reading Assignments:

Week 1 (30 September – 05 October 2012)

Blackboard enrollment and online orientation

David Rieff, “The Precarious Triumph of Human Rights.” *New York Times Magazine*. Aug. 8, 1999.

Gelb, Leslie H. and Justine A. Rosenthal. "The Rise of Ethics in Foreign Policy." *Foreign Affairs* 82:3 (May/June 2003), 2-7.

Week 2 (08-12 October 2012)

Evans, Gareth and Mohamed Sahnoun. "The Responsibility to Protect." *Foreign Affairs*, (Nov/Dec 2002), 99-110.

Beitz, Charles. "Human Rights as Common Concern." *American Political Science Review*. (June 2001).

Week 3 (15-19 October 2012)

Salmon, Elizabeth. "Reflections on International Humanitarian Law and Transitional Justice: Lessons to be Learnt from the Latin American Experience." *International Review of the Red Cross*, Vol 88, no. 862, June 2006; 327-353.

Barsalou, Judy. "Trauma and Transitional Justice in Divided Societies." United States Institute of Peace, Special Report #135, April 2005.

Suggested Reading

Paolo G. Carozza, "From Conquest to Constitutions: Retrieving a Latin American Tradition of the Idea of Human Rights," *Human Rights Quarterly* 25 (2003), pp. 281-313.

Lutz, Ellen and Kathryn Sikkink. "The Justice Cascade: The Evolution and Impact of Foreign Human Rights Trials in Latin America." *Chicago Journal of International Law* 2.1 (Spring 2001), 1-33.

Nagle, Luz E. "On Armed Conflict, Human Rights, and Preserving the Rule of Law in Latin America." *Penn State International Law Review*, Vol 21, no. 1 (Summer 2008) pp. 1-44.

Gray, Colin. "How Has War Changed since the end of the Cold War?" *Parameters*, Spring 2005, 35:1, 14-26.

Popovski, Vesselin, Nicholas Turner, Thomas Karl Wagner, and Greg Lowden. "The Human Rights Regime in the Americas." United Nations University, 2008.

Day #1, 22 Oct 2012 – Administrative Matters, Introduction to Course

Lectures:

- Lecture #1 - Introduction to Human Rights and Rule of Law
- Lecture #2 - Keynote Address on Human Rights and Rule of Law in Latin America

Discussion Questions:

- *Are civil and political rights of the individual the most basic and fundamental of all human rights? Is it desirable to establish a hierarchy of human rights?*
- *What international or regional organizations are concerned with human rights?*
- *How do we enforce human rights? What compels a government to “honor” or implement human rights?*
- *Do you believe human rights are important to the governments of Latin America? Has this changed over time? Why and how?*
- *Are human rights important to the security forces of the region?*

Reading Assignments:

Hammond, James W. “Legitimacy and Military Operations.” *Military Review*, 2010, 68-79.

United Nations Economic and Social Commission for Asia and the Pacific. “What is Good Governance?” Source:

<http://www.unescap.org/pdd/prs/projectactivities/ongoing/gg/governance.asp>

Lutz, Ellen and Kathryn Sikkink. “International Human Rights Law and Practice in Latin America.” *International Organization* 54:3, Summer 2000, pps. 633-659.

Shanker, Thom. “Joint Chiefs Chairman Readjusts Principles on Use of Force,” *New York Times*, March 4, 2010, A16.

Suggested Reading:

Munoz, Heraldo, "The Right to Democracy in Latin America," *Journal of Interamerican Studies and World Affairs*,(Vol. 40, No 1, Spring 1998), pp 1-18.

Kaufman, Edy, "Human Rights in Latin America - a Watershed?" *The World Today*,(Vol. 37, No 2, February 1981) pp 63-69.

Kathryn Sikkink, *Mixed Signals: U.S. Human Rights Policy and Latin America* (Ithaca, NY: Cornell University Press, 2004).

Day #2, 23 Oct 2012 – Human Rights and Rule of Law in Latin America

Lectures:

- Lecture #3 – Human Rights Theory and Overview
- Lecture #4 – Democracy and the Rule of Law in Latin America
- Lecture #5 – International and Regional Human Rights Institutions

Discussion Questions:

Cultural Issues:

- *What are some of the social, political, cultural, historical differences among the regions that may explain the different challenges for the realization of human rights?*
- *How can we understand human rights in a cross-cultural context?*
- *What validity is there to the argument that human rights are a western imposition? Are there ideological arguments that favor upholding human rights? Are there ideological arguments that lead to violations of human rights?*
- *How can human rights advocates avoid being called “cultural imperialists”?*
- *What is the debate within Islamic communities on human rights? How do human rights hold currency in Islamic traditions?*

International and Regional Human Rights Institutions:

- *How does the UN Charter address human rights and in what provisions? Are all human rights included?*
- *Compare the UN Charter’s human rights provisions with those of the UDHR. Are there any potential conflicts?*
- *What are the categories of human rights that are set out in the Universal Declaration of Human Rights (UDHR)? Is the UDHR legally binding on states? Is the language of rights and the content of rights in the (UDHR) universal? Or are the values that are incorporated in the UDHR particular to given cultures or states? Are there ways of bridging the differences among cultures or states so that they are bound to recognize the same rights?*
- *What UN organs and machinery are in place for promoting and protecting human rights? How does the UN investigate violations of human rights?*
- *To what extent does a regional approach offer advantages over a UN System or “global” approach? Make a list of the benefits and limitations of a regional approach.*
- *Do you see in any of these documents any departure from ‘universal’ premises, rights, and related obligations of states? Are there any concessions in any provisions to different cultures or political systems?*
- *Can or should we have universal women's rights? Are human rights only the rights of individuals? Can we preserve both cultural traditions and individual rights? Is it possible to compromise when faced with such a rights dilemma?*
- *To what extent may NGOs participate in the work of UN bodies?*

Reading Assignments:

Information on rights & treaties under the Inter-American system:

<http://www.hrea.org/learn/guides/OAS.html>

Universal Declaration of Human Rights (1948) :
<http://www.un.org/Overview/rights.html>

Bolton, John R. "Courting Danger: What's Wrong With the International Criminal Court." *The National Interest*, no. 54 (Winter 1998/99), pp. 60-71.

Cruz, Jose Miguel. "Should Authorities Respect the Law When Fighting Crime?" Americas Barometer Insights, Latin American Public Opinion Project (LAPOP), 2009 (no 19).

Suggested Readings

Goldman, Robert. "History and Action: the Inter-American Human Rights System and the Role of the Inter-American Commission on Human Rights." *Human Rights Quarterly* 31:4 (Nov 2009).

Roht-Arriazia, Naomi. "Institutions of International Justice." *Journal of International Affairs* (spring 1999).

Bellinger, John B. "A Path for Global Justice." *New York Times*, June 22, 2012.

Herrmann, Stefanie, Dillon MacDonald, and Robert Tauscher. "Confidence in the Criminal Justice System in the Americas." Americas Barometer Insights, Latin American Public Opinion Project (LAPOP), 2011 (no 62).

Simons, Marlise. "Congolese Warlord Draws First Sentence from International Criminal Court." *New York Times*, July 11, 2012.

Kristof, Nicholas. "Prosecuting Genocide." *New York Times*, July 17, 2008.

Booth, John and Mitchell Seligson. "Legitimacy and Political Participation in Eight Latin American Nations." Paper prepared for the Midwest Political Science Meeting, April 2-4, 2009.

Hale, C. (2002). "Does Multiculturalism Menace? Governance, Cultural Rights and the Politics of Identity in Guatemala." *Journal of Latin American Studies* 34(3).

Glendon, M. A. (2003). "The Forgotten Crucible: The Latin American Influence on the Universal Human Rights Idea." *Harvard Human Rights Journal* 16: 27-39.

Donnelly, Jack. "The Relative Universality of Human Rights." *Human Rights Quarterly* 29 (2007), 281-306.

Nossel, Suzanne. "Advancing Human Rights in the UN System." Council on

Foreign Relations, May 2012.

Dembour, Marie-Benedicte. "What Are Human Rights? Four Schools of Thought." *Human Rights Quarterly* 32 (2010), 1-20.

Institute of Technology Zurich (ISN). "What Are Human Rights and Where Do They Come From?" 16 January 2012. Retrieved from: <http://www.isn.ethz.ch/isn/Current-Affairs>

Fukuyama, Francis. "Transitions to the Rule of Law." *Journal of Democracy* 21.1 (2010), 33-44.

Barnett, Michael N. "Bringing in the New World Order." *World Politics* 49 (July 1997), 526-551.

Tharoor, Shashi. "Why America Still Needs the United Nations." *Foreign Affairs*, Sept/Oct 2003, 67-80.

International Covenant on Civil and Political Rights (1976):
<http://www1.umn.edu/humanrts/instreet/b3ccpr.htm>

Rome Statute of the International Criminal Court:
<http://www.un.org/law/icc/index.html>

International Criminal Tribunal for Rwanda:
<http://www.icttr.org/MainPage2.htm>

The ICJ Considers Genocide: Bosnia vs. Yugoslavia:
<http://oz.uc.edu/thro/genocide/index.html>

Day #3, 24 Oct 2012 – Non-Traditional Threats

Lectures:

- Lecture #6 – Transnational Criminal Organizations and *Pandillas* in Latin America
- Lecture #7 – Trafficking in Persons and other Human Rights issues in Latin America
- Lecture #8 – Human Rights and Terrorism
- Lecture #9 – Ethnic Conflict and Indigenous Rights

Discussion Questions:

- *Do criminal organizations comply with international norms of humanitarian law or human rights? Why or why not? Would it serve their interests to do so?*
- *How can trans-national criminal organizations be held accountable for human rights violations?*

- *How are indigenous peoples treated in Latin America? How, if at all, is this changing? Is there an emerging movement of indigenous rights in Latin America?*

Reading Assignments:

Naim, Moises. "The Five Wars of Globalization." *Foreign Policy*, Jan/Feb 2003, pps. 29-36.

Seelke, Clare Ribando. "Trafficking in Persons in Latin America and the Caribbean." Congressional Research Service, September 9, 2011.

Manwaring, Max G. "Street Gangs: The New Urban Insurgency." Strategic Studies Institute, March 2005.

Buchanan, Cornelia, Liz DeAngelo, Ruidan Ma, and Chris Taylor. "Mano Dura in the Americas: Who Supports Iron Fist Rule?" Americas Barometer Insights, Latin American Public Opinion Project (LAPOP), 2012 (no 80).

Suggested Reading:

Seelke, Clare Ribando, Liana Wyler, June Beittel, and Mark Sullivan. "Latin America and the Caribbean: Illicit Drug Trafficking and U.S. Counterdrug Programs." Congressional Research Service, May 12, 2011.

Abramowitz, David. "The President, the Congress, and Use of Force: Legal and Political Considerations Authorizing the Use of Force Against International Terrorism." *Harvard International Law Journal*, Winter 2002,

Meyer, Maureen. "A Dangerous Journey through Mexico: Human Rights Violations Against Migrants in Transit." Washington Office on Latin America (WOLA), December 2010.

Sun Wyler, Liana. "Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress." Congressional Research Service, July 6, 2012.

Hayden, Tom. "Bolivia's Indian Revolt," *The Nation*, 21 June 2004, pp. 18-24.

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Breve, Federico. "The Maras – A Menace to the Americas." *Military Review*, July/Aug 2007, 88-95.

Day #4, 25 Oct 2012 – Police vs. Military Roles and Missions

Lectures:

- Lecture #10 – The Law of Armed Conflict
- Lecture #11 – Police vs Military Missions
- Lecture #12 – Security Sector Reform
- Lecture #13 – States of Exception

Discussion Questions:

- *How are the missions of police and the military different? What rules of engagement do they use?*
- *Is a military government preferable to a civilian government? Why? In the current security environment in Latin America, some surveys report that citizens prefer military dictatorships to those of civilian elected officials. What are the advantages and disadvantages of each?*
- *What has been the level of success of training the Iraqi and Afghanistan police? What has worked? What has not?*

Reading Assignments:

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Withers, George, Lucila Santos, and Adam Isacson. "Practice What You Preach: The Separation of Military and Police Roles in the Americas." Washington Office on Latin America, November 2010.

Johnson, Stephen, Johanna Mendelson Forman, and Katherine Bliss. "Police Reform in Latin America: Implications for U.S. Policy." Center for Strategic & International Studies (CSIS), February 2012.

Ignatieff, Michael. "The Broken Contract." *New York Times Magazine*, Sept 25, 2005.

International Crisis Group. "Police Reform in Guatemala: Obstacles and Opportunities." Latin America Report #43, 20 July 2012.

Cruz, Jose Miguel. "Police Abuse in Latin America." Americas Barometer Insights, Latin American Public Opinion Project (LAPOP), 2009 (no 11).

Ahmad, Nabeela, Victoria Hubickey, and Francis McNamara IV. "Trust in the National Police." Americas Barometer Insights, Latin American Public Opinion Project (LAPOP), 2011 (no 59).

Montalvo, Daniel. "Do You Trust Your Armed Forces?" Americas Barometer Insights, Latin American Public Opinion Project (LAPOP), 2009 (no 27).

Day #5, 26 Oct 2012 – Colombia Case Study

Lectures:

- Lecture #14 – Colombian CTCO Strategy
- Lecture #15 – Human Rights Issues in Colombia
- Panel Discussion #1 – Human Rights in Colombia

Discussion Questions:

- *What have been the lessons from Colombia on human rights and international humanitarian law?*
- *What human rights concerns are implicated by forced migration and refugee flows?*
- *What transitional justice tools have been used as part of the larger effort of conflict resolution?*

Reading Assignments:

Marks, Thomas. "A Model Counterinsurgency: Uribe's Colombia (2002-2006) vs FARC." *Military Review* (March-April 2007), pps 41-59.

Haugaard, Lisa, Gimena Sánchez-Garzoli, Adam Isacson, John Walsh and Robert Guitteau. "A Compass for Colombia Policy." Washington Office on Latin America, October 2008.

Carpenter, Ted Galen. "Mexico is Becoming the Next Colombia." CATO Institute (no. 87), November 15, 2005.

William Aviles, "Institutions, Military Policy and Human Rights in Colombia," *Latin American Perspectives* 28, 1 (June 2001), pp. 31-55.

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Marcella, Gabriel. "Democratic Governance and the Rule of Law: Lessons from Colombia." Strategic Studies Institute, Dec 2009.

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Haugaard, Lisa, Adam Isacson, and Jennifer Johnson. “A Cautionary Tale: Plan Colombia’s Lessons for U.S. Policy Toward Mexico and Beyond.” Center for International Policy (CIP) and Washington Office on Latin America (WOLA), November 2011.

Morgenstein, Jonathan. “Consolidating Disarmament: Lessons from Colombia’s Reintegration Program for Demobilized Paramilitaries.” U.S. Institute for Peace, November 2008.

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Isacson, Adam. “Don’t Call it a Model.” Washington Office on Latin America (WOLA), July 14, 2010.

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Burgoyne, Michael L. “The Allure of Quick Victory: Lessons from Peru’s Fight Against Sendero Luminoso.” *Military Review*, Sept/Oct 2010, 68-73.

Day #6, 29 Oct 2012 – International Humanitarian Law

Lectures:

- Lecture #16 – Introduction to International Humanitarian Law
- Lecture #17 – Just War Theory
- Lecture #18 – Humanitarian Intervention
- Lecture #19 – Case Study on Peacekeeping Ops and Humanitarian Intervention

Possible Discussion Questions:

- *What correlation is there between the concepts of sovereignty, non-interference and the international protection of human rights? What are the implications of their concepts for international law and policy?*
- *What is the concept of “global civil society”? What contribution does it make to the promotion of human rights? Is there a dark side to global civil society?*

- *What is the role of customary international law in international criminal law and human rights?*
- *When, if ever, does a sovereign nation lose its authority? What conditions justify international humanitarian intervention? What are the risks of doing so?*
- *Do we have universal international criminal law? Why or why not? Can there be universality in the substance of international criminal law but not the procedure?*
- *What is the crime of genocide? What are “crimes against humanity” and “war crimes” Who can be held responsible for crimes against humanity and war crimes? When and under what conditions?*
- *Do genocide, apartheid, slavery, racial discrimination, torture, and terrorism constitute international crimes or international offenses? Where do you find support for finding them human rights violations?*
- *What are the various ways of “intervening” to promote human rights in another country? List both coercive and noncoercive methods.*
- *Why at the close of the millennium do we see increased interest in international criminal courts? Is there a human rights justification? A political justification?*
- *The U.S. government has opposed the ICC as presently established. Can you explain why? Was it consistent with the U.S.’s image of itself as a “promoter of human rights around the world”?*
- *What are the main provisions of the statute for the ICC? How does the statute for the ICC compare with that for Rwanda?*
- *Why were the tribunals for Rwanda and the former Yugoslavia created? Do they represent something “new”? What precedent do they draw upon? Do you support the creation of ad hoc criminal tribunals, such as the ones for Rwanda and Kosovo? What are the arguments for and against?*
- *What are some of the human rights issues implicated with the creation of such courts? (Think about victims, by-standers and the accused.)*
- *Can you predict the future with respect to utilization of international criminal courts? What would it take for the U.S. to embrace universal application of international criminal law?*

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Roth, Kenneth. “The Case for Universal Jurisdiction.” *Foreign Affairs*, Sept/Oct 2001.

Slater, Jerome and Terry Nardin. “Non-Intervention and Human Rights.” *The Journal of Politics*, Vol 48 (1986), 86-96.

MacFarlane, S. Neil, Carolin J. Thielking, and Thomas G. Weiss. "The Responsibility to Protect: Is Anyone Interested in Humanitarian Intervention?" *Third World Quarterly*, Vol 25, no. 5 (2004), pps. 977-992.

Suggested Reading:

Kaufmann, Chaim. "See No Evil: Why America Doesn't Stop Genocide." *Foreign Affairs*, July/August 2002. 142-149.

Power, Samantha. "Dying in Darfur." *The New Yorker* 80:24, Aug 30, 2004.

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Mearsheimer, John and Stephen Walt. "An Unnecessary War." *Foreign Policy*, Jan/Feb 2003, 50-59.

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Kenkel, Kai Michael. "Stepping Out of the Shadows: South America and Peace Operations." *International Peacekeeping*, Vol 17, no. 5, November 2010, 584-597.

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Reiff, David. "The Humanitarian Trip." *World Policy Journal*, (winter 1995).

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Galvin, John. "Uncomfortable Wars: Toward a New Paradigm." *Parameters*, Vol XVI, no. 4, 1986, 2-8.

Day #7, 30 Oct 2012 – Case Study: Operation Iraqi Freedom, Operation Enduring Freedom

Lectures:

- Lecture #20 – Case Study: OIF and OEF
- Lecture #21 – Human Rights Considerations in Iraq and Afghanistan
- Lecture #22 – Military Tribunals and Judicial Reforms
- Panel Discussion #2 – Human Rights in Iraq and Afghanistan

Discussion Questions:

- Does “human rights promotion” advance or endanger the “national interests” of the United States?
- How do human rights figure into U.S. foreign policy? How should it?
- Does the U.S. generally abide by international human rights law?
- What would a national human rights institution look like in the United States? What roadblocks exist to creating such a U.S. NHRI? Can they be overcome?

Reading Assignments:

Kahl, Colin H. “How We Fight.” *Foreign Affairs*, Nov/Dec 2006, Vol 85, no. 6, pps. 83-101.

Kyle, Brett J. and Andrew G. Reiter. “Dictating Justice: Human Rights and Military Courts in Latin America.” *Armed Forces & Society* 38:1 (2012), pp 27-48.

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Suggested Reading:

Packer, George. “The Lessons of Tal Afar.” *The New Yorker Magazine*, April 10, 2006.

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Wittes, Benjamin. “Guantanamo’s Next Decade.” *The Washington Post*, January 3, 2012.

Ratner, Steven. “Predator and Prey: Seizing and Killing Suspected Terrorists Abroad.” *The Journal of Political Philosophy*, Vol 15, no. 3, (2007), pp 251-275.

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Mayer, Jane. "Outsourcing Torture," *The New Yorker*, 14 February 2005.

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Schlesinger, Arthur. "Human Rights and the American Tradition." *Foreign Affairs* (1978).

Huntington, Samuel P. "Human Rights and American Power." *Commentary*, 72:3 (September 1981), pp 37-43.

Cohen, Roberta. "Integrating Human Rights in U.S. Foreign Policy: The History, the Challenges, and the Criteria for an Effective Policy." Statement at the Foreign Service Institute. Brookings Institute, 2008.
<http://www.brookings.edu/~media/research/files/speeches/2008/>

Forsythe, David P. "Human Rights and U.S. Foreign Policy: Two Levels, Two Worlds." *Political Studies*, Vol 43: (1995), pp 111-130.

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Seelke, Clare Ribando. "Article 98 Agreements and Sanctions on U.S. Foreign Aid to Latin America." Congressional Research Service, March 22, 2007.

Day #8, 31 Oct 2012 – Case Study : Mexico and Brazil

Lectures:

- Lecture #23 – Case Study: Military in Domestic Law Enforcement in Mexico
- Lecture #24 – Case Study: Military and Police in Brazil

Discussion Questions:

- *What are the major issues that stand out as the toughest challenges for human rights for the future?*

Reading Assignments:

Anderson, Jon Lee. "Gangland." *The New Yorker*. October 5, 2009.

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Casey, Nicholas. "U.S. Shifts Mexico Drug Fight." *Wall Street Journal*, Sept 17, 2012.

Archibold, Randal C. "Mexican General Is Charged in Killings and Abuses," *New York Times*, February 1, 2012.

Felbab-Brown, Vanda. "Lessons from Colombia for Mexico? Caveat Emptor." Brookings Institute, February 24, 2012.

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Freden, Brad. "The COIN Approach to Mexican Drug Cartels: Square Peg in a Round Hole." *Small Wars Journal*, Dec 27, 2011.

Bricker, Kristin. "Military Justice and Impunity in Mexico's Drug War." Center for International Governance Innovation (CIGI), SSR Issue Papers No. 3, September 2011.

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Zabludovsky, Karla. "In Mexico, Rehearsing to Inject Drama into the Courtroom." *New York Times*, August 28, 2012.

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Zizumbo-Colunga, Daniel. "Explaining Support for Vigilante Justice in Mexico." Americas Barometer Insights, Latin American Public Opinion Project (LAPOP), 2010 (no 39).

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Romero, Simon and Taylor Barnes. "Officer of the Law, Outside the Law." *New York Times*, January 10, 2012.

Day #9, 01 Nov 2012 – Student Presentations and Exercise

Lectures:

- Lecture #25 – Transitional Justice and Accountability
- Lecture #26 – Human Rights in a Globalized Economy

Discussion Questions:

Human Rights in a globalized economy

- *What are the particular challenges for human rights advocates in our era marked by globalization?*
- *To what extent can social justice be pursued through the world economy?*
- *Has labor become more interested in international affairs generally? In human rights? If so, why?*
- *To what extent are transnational corporations responsible for human rights violations? To what extent can transnational corporations be held responsible for human rights violations? Are there parent countries liable for the corporations actions?*

Truth Commissions and Accountability

- *What is the relationship between truth commissions and human rights?*
- *What are the arguments in support of the establishment of truth commissions?*
- *What are some of the lessons learned from truth commissions? When do they "work"? (And what does it mean to "work?")*

- *Amnesty has been offered as part of nearly every post-conflict, transitional justice effort in Latin America? Is this necessary as a means to an end?*
- *Should victims be compensated or receive reparations for their suffering? Who should pay? Should government security forces receive compensation for their losses from insurgents or rebels?*

Non-government organizations (NGO)

- *What contribution do NGOs make in human rights? At what level do NGOs operate (e.g., local, regional, international)? What factors do they weigh in determining which methods to employ at various levels?*
- *How do governments and international organizations use the reports and critiques of NGOs?*
- *Do you agree or disagree with the following statement: “International NGOs are but another method for imposing Western concepts upon the Third World. Their agendas are dictated by external assumptions, and they ignore or suppress vital issues like exploitation by their home states in the Third World and their own state’s responsibility for human rights violations abroad.”*
- *Are NGOs accountable? Is this a problem?*
- *Can local human rights NGOs be encouraged and supported by outside funders (including governments) without losing some of the essential characteristics of human rights NGOs?*
- *How do the internal politics of NGOs influence their human rights work?*
- *Consider some of the problems of investigative missions of NGOs. What are they supposed to do on these missions? Are they apolitically objective? Can they be? Should they be?*
- *What assessment can reasonably be made of the contribution of NGOs to human rights? What are differences between international crimes and international offenses?*

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Mendez, Juan E. "National Reconciliation, Transnational Justice, and the International Criminal Court." *Ethics and International Affairs* 15:1 (2001), pp 25-44.

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Laplante, Lisa J. and Kimberly Theidon. "Truth with Consequences: Justice and Reparations in Post-Truth Commission Peru." *Human Rights Quarterly* 29 (2007), 228-250.

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Michael Dodson and Donald Jackson, "Horizontal Accountability in Democratic Transitions: the Human Rights Ombudsman in El Salvador and Guatemala." *Latin America Politics and Society* (Winter 2004), 46:4 (p. 1-27)

Terry Karl, "El Salvador's Negotiated Revolution", *Foreign Affairs*, Spring 1992.

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Tina Rosenberg, "The Free-Trade Fix," *The New York Times Magazine*, 18 August 2002.

Donna Lee Van Cort, "A Political Analysis of Legal Pluralism in Bolivia and Colombia," *Journal of Latin American Studies*, 32 (2000), pp. 207-234.

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Day #10, 26 Apr 2012 – Course Wrap-Up and Graduation

Discussion Questions:

- *What are the major issues that stand out as the toughest challenges for human rights for the future?*
- *Did the human rights movement erode sovereignty and domestic jurisdiction?*
- *To what extent have we moved "beyond the state" with respect to the enforcement of human rights norms? To what extent does the state retain authority and importance in an era of globalization? Are some matters still exclusively within the province of domestic jurisdiction or state sovereignty? If yes, are these matters completely immune from international regulation?*
- *To what extent have we moved "beyond the state" with respect to the enforcement of human rights norms? To what extent does the state retain authority and importance in an era of globalization? Are some matters still exclusively within the province of domestic jurisdiction or state sovereignty? If yes, are these matters completely immune from international regulation?*
- *Did the human rights movement erode sovereignty and domestic jurisdiction?*
- *What is "the next step" for human rights advocacy? Make an "action plan" for nongovernmental human rights advocates.*
- *What should be the message regarding previous human rights abuses in Latin America to the new generation of leaders?*

Reading Assignments:

Ignatieff, Michael. "Human Rights: The Midlife Crisis". *New York Times Review of Books*, May 20, 1999.

Ignatieff, Michael. "Is the Human Rights Era Ending?" *New York Times Review of Books*, February 5, 2002.

Suggested Readings:

Ignatieff, Michael. "Lesser Evils." *The New York Times Review of Books*, May 2, 2004.

Lake, David A. "The New Sovereignty in International Relations." *International Studies Review*, 2003 (5), 303-323.

Ignatius, David. "The Failure of the UN's Noble Idea." *Washington Post*, September 2, 2012.

Herz, John. "Rise and Demise of the Territorial State." *World Politics* 9.4, July 1957, 473-493.

Kober, Stanley. "Idealpolitik." *Foreign Policy* 79, Summer 1990, 3-24.