

ECONOMIC AND SOCIAL RIGHTS

Prof. Philip Alston

Vanderbilt Hall 214, Tuesdays & Fridays, 9.00 – 10.15 am

FALL 2014

Course materials

There is no textbook. The course materials will be made available on Blackboard in the course of the semester. A set of Documents will also be posted.

The following books are of direct significance for the course. Some of them have been placed on Reserve in the library:

Ben Saul, David Kinley & Jacqueline Mowbray, *The International Covenant on Economic, Social, and Cultural Rights: Commentary, Cases and Materials* (2014, Oxford University Press)

Eibe Riedel, Gilles Giacca & Christophe Golay (eds), *Economic, Social, and Cultural Rights in International Law: Contemporary Issues and Challenges* (2014, Oxford University Press)

Katharine G. Young, *Constituting Economic and Social Rights* (2012, Oxford University Press)

Colleen Flood & Aeyal Gross, *The Right to Health at the Public/Private Divide: A Global Comparative Study* (2014, Cambridge University Press);

Francis Maupain, *The Future of the International Labour Organization in the Global Economy* (2013, Hart)

Malcolm Langford, Andy Sumner, and Alicia Ely Yamin (eds.), *The Millennium Development Goals and Human Rights: Past, Present and Future* (2013, Cambridge University Press)

John Tobin, *The Right to Health in International Law* (2012, Oxford University Press);

Galit A. Sarfaty, *Values in Translation: Human Rights in the Culture of the World Bank* (2012, Stanford University Press)

Sandra Liebenberg, *Socio-Economic Rights: Adjudication under a Transformative Constitution* (2010, Juta);

Sandra Fredman, *Human Rights Transformed: Positive Rights and Positive Duties* (Oxford University Press, 2008)

Frank J. Garcia, *Global Justice and International Economic Law: Three Takes* (2013, Cambridge University Press)

Malcolm Langford, Ben Cousins, & Jackie Dugard (eds.), *Socio-Economic Rights in South Africa: Symbols or Substance?* (2013, Cambridge University Press)

Malcolm Langford (ed.), *Social Rights Jurisprudence* (2008, Cambridge University Press);

Varun Gauri & Daniel Brinks (eds.), *Courting Social Justice* (2008, Cambridge University Press);

Daphne Barak-Erez & Aeyal Gross (eds.), *Exploring Social Rights: Between Theory and Practice* (2007, Hart).

Assessment

The requirements for this course can be satisfied either by taking the end of semester exam or by writing a three credit paper. The **exam** will be an open book, three hour, in class exam, based on the materials prescribed for the course and the class discussions.

If you wish to write a **paper**, this is how it works:

- This is a 3 credit course, and so the paper is worth 3 credits. It must be at least 10,000 words in length.
- The topic must focus on an aspect of ESR and will ideally be closely related to one of the issues dealt with in the course.
- It is your responsibility to propose a topic. Once I have indicated agreement in principle, you will need to submit an outline of at least one page identifying a specific research question, describing the methodology, and outlining the proposed structure of the paper. October 31st is the deadline for submitting this outline.
- The paper is due by the end of the exam period, and should be sent to audrey.watne@nyu.edu
- No extensions of the deadline will be given. A student who cannot meet the deadline will need to take the exam instead of writing a paper.

Grading

Note that the NYU grading curve is compulsory for this course. That means that papers will also be graded on a relative basis.

Final grades for the course will take account of class participation.

Office hours

Office hours are from 10.30-12.30 on Tuesdays, sign-up with Audrey Watne VH 310 (Audrey.watne@nyu.edu)

LIST OF TOPICS

A. THE FOUNDATIONS OF ESR

1. Introduction to ESR
2. Theories of ESR (I)
3. Theories of ESR (II)
4. Historical origins of the international ESR legal regime

B. RIGHTS AND OBLIGATIONS UNDER THE COVENANT

5. Reading the ICESCR
6. Available resources: Affordability
7. Inequality and the relationship between the two sets of rights
8. Gender and ESR
9. Privatization and human rights

C. COURTS AND SOCIAL RIGHTS

10. The right to education: Non-discrimination and equality
11. The right to housing: The limits of reasonableness review
12. The right to water: Procedural versus substantive approaches to ESR adjudication
13. The right to health: Resource scarcity and a Colombia case study
14. The right to health: India's public interest litigation
15. The right to water: international standard setting
16. The pitfalls of judicial review and the impact of litigation

D. IMPLEMENTING ESR: BEYOND COURTS

17. Constitutions and national institutions
18. Public mobilization, legislative follow-up, and administrative remedies: India's Right to Food Campaign
19. Poverty lines and the use of indicators

E. INTERNATIONAL DIMENSIONS

20. Reporting under the ICESCR
21. ESR Complaints Systems
22. International adjudication of ESR: The Inter-American Court
23. The role of international NGOs
24. A Framework Convention on Global Health
25. The Post-2015 Development Agenda
26. Social Protection Floors
27. Wrap-up
28. One additional class will be scheduled during the semester for a guest speaker