WILLIAM J. PERRY
CENTER FOR HEMISPHERIC DEFENSE STUDIES
NATIONAL DEFENSE UNIVERSITY
WASHINGTON, DC 20319-5066

Syllabus, Strategic Implications of Human Rights and Rule of Law (HR/ROL- 2013)

Distance Learning
Monday, September 23, 2013 – Friday, October 11, 2013

In-Residence
Monday, October 21, 2013 -November 01, 2013

Mr. Ken LaPlante
Acting CHDS Director

Dr. Luis Bitencourt
CHDS Dean of Academic Affairs

Mr. Patrick Paterson
HR/ROL 2013 Course Director

Rev D, 09 Oct 2013

Disclaimer

This document contains educational material designed to promote discussion by students of the Center for Hemispheric Defense Studies. It does not necessarily reflect the views of the National Defense University or the Department of Defense.

CHDS Copyright Notice

The contents of this document are the property of the U.S. Government and are intended for the exclusive use of the faculty and students of the Center for Hemispheric Defense Studies. No further dissemination is authorized without the express consent of CHDS.

CHDS Policy on Non-attribution

Presentations by guest speakers, seminar leaders, students and panelists, including renowned public officials and scholars, constitute an important part of university academic curricula. So that these guests, as well as faculty and other officials, may speak candidly, the Center offers its assurance that their presentations at the courses, or before other CHDS-sponsored audiences, will be held in strict confidence. This assurance derives from a policy of non-attribution that is morally binding on all who attend: without the express permission of the speaker, nothing he or she says will be attributed to that speaker directly or indirectly in the presence of anyone who was not authorized to attend the lecture.

Course Introduction and General Description

In the aftermath of the atrocities of World War II, there was increased recognition 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 replaced military rule throughout South America, and progress towards democratic rule was made 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 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, persists at a high level. The result is 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 trial of General Effrain 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 have the option 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 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 (3 Weeks) – 23 Sept – 11 October 2013

The Distance Learning phase of the course lasts three 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 and third weeks will involve online discussions of some basic concepts of human rights, rule of law, and other components of the course. Students will be asked to respond to questions drawn from the reading assignments and posted online. Student responses during this period constitute a significant percentage of the final grade for the course. During the week between the end of the distance learning phase and the resident phase (14-18 October), the students will prepare for travel to Washington DC.

Resident Phase (2 weeks) – 21 October – 01 November 2013

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) – 04-22 November 2013

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 encouraged 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 optional part of the course. Top papers will be considered for publication in CHDS's Security and Defense Studies Review journal.

Student Written Reports on Perspectives on Human Rights

As part of the 3-week Research and Writing phase, participants may complete a 10-15 page written report on their research.

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 primarily through their level and quality of class participation. Additional information and grading rubric is available in the course "Policies and Academic Instructions" posted on Blackboard.

The final course grade is comprised of two parts:

1. Participation during distance learning phase: 30%
2. Class participation during group discussions: 70%

Expectations regarding Student Participation

Much of the HR/ROL course is dedicated to the exchange of ideas among students during the "Break Out Group" discussions. Perry Center professors facilitate the process but much of the responsibility rests on the students to share their experiences, challenge status quo assumptions, and contribute to a robust academic debate on the topics. As such, students are expected to read all assigned materials, pay close attention to lectures, and articulate the nuances of the issues during the group discussions.

To prepare for the group discussions, each student is expected to read approximately 40 to 60 pages per day and be prepared to contribute to a discussion of that material in the group discussions. A climate of mutual respect and camaraderie is an imperative when exchanging opinions on a topic as politically and emotionally charged as human rights.

Academic Organization

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

Discussion Questions and Reading Requirements

<u>Online Phase, 23 September - 11 Oct 2013</u>

<u>Discussion Questions:</u>

- *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 (23-27 September 2013)

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 (30 September - 04 October 2013)

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

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.

Week 3 (7-11 October 2013)

Brooks, Rosa, "Strange Bedfellows: The Convergence of Sovereignty-Limiting Doctrines in Counterterrorist and Human Rights Discourse" (2012). *Georgetown Law Faculty Publications and Other Works*. Paper 1219. http://scholarship.law.georgetown.edu/facpub/1219

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.

Day #1, 21 Oct 2013 – Administrative Matters, Introduction to Course

Lectures:

- Lecture #1 - Introduction to Course
- 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.

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.

Day #2, 22 Oct 2013 – 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

Discussion Questions:

- *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?*
- *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?*
- *What is the rule of law and how is it related to democracy? What are the principal elements of rule of law?*

Reading Assignments:

Christopher Ford, "The Rule of Law for Commanders." Military Review, Jan-Feb 2008, pps 50-56.

O'Donnell, Guillermo. "Polyarchies and the (Un)Rule of Law in Latin America: A Partial Conclusion." In the edited book, Mendez, Juan, Guillermo O'Donnell, and Paulo Sergio Pinheiro (editors), The (Un)Rule of Law and the Underprivileged in Latin America. (Notre Dame, IN: University of Notre Dame Press, 1999). Pps 303-337.

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

Information on rights & treaties under the Inter-American system:
http://www.hrea.org/learn/guides/OAS.html

Day #3, 23 Oct 2013 – Human Rights and Non-Traditional Threats

Lectures:
- Lecture #5 – Human Rights and Threats to Security in Latin America
- Lecture #6 – Trafficking in Persons and Judicial Reforms in Latin America
- Lecture #7 – 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, January 23, 2012.

Donna Lee Van Cott, "Latin America's Indigenous Peoples," Journal of Democracy, Vol 18, no. 4, October 2007, pps 127-141.

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.

Day #4, 24 Oct 2013 – Police vs. Military Roles and Missions

Lectures:

- Lecture 8 – The Law of Armed Conflict and Just War Theory
- Lecture #9 – Counter Insurgency and Stability Operations
- Lecture #10 – Military and Police Roles

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:

Campbell, Donald J. and Kathleen M. Campbell. "Soldiers as Police Officers/Police Officers as Soldiers: Role Evolution and Revolution in the United States." *Armed Forces & Society* 36(2), 327-350.

U.S. Institute of Peace, "Guiding Principles for Stabilization and Reconstruction, 2009. (READ SECTIONS 2 and 3 ONLY).

Thomas Nachbar, "Counterinsurgency, Legitimacy, and the Rule of Law." Parameters, Spring 2012, pps 27-38.

Cruz, Jose Miguel. "Police Misconduct and Democracy in Latin America." Americas Barometer Insights, Latin American Public Opinion Project (LAPOP), 2010 (no 33).

Day #5, 25 Oct 2013 – Colombia Case Study

Lectures:

- Lecture #11 – Colombian CTCO Strategy
- Lecture #12 – Human Rights Issues in Colombia
- Lecture #13 – Transitional Justice 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.

Pat Paterson, "Conflict Resolution in Colombia." Perry Center Occasional Paper, June 2013.

Day #6, 28 Oct 2013 – International and Regional Human Rights Organizations

Lectures:

- Lecture #14 –International and Regional Human Rights Institutions
- Lecture #15 – Transitional Justice and the Rule of Law

Possible Discussion Questions:

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?*
- *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?*
- *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?*

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?*

<u>Reading Assignments:</u>

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

Elizabeth Malkin, "Ex-Dictator Denies Role in Guatemalan Massacres." New York Times, May 9, 2013.

Bronwyn, Anne Leebaw. "The Irreconciable Goals of Transitional Justice." *Human Rights Quarterly* 30, 2008, 95-118.

Curt Anderson, "Ex-El Salvadoran Defense Minister can be Deported, Court rules." The Washington Post, Feb 25, 2012.

Day #7, 29 Oct 2013 – International Humanitarian Law and Humanitarian Intervention

Lectures:

- Lecture #17 – Humanitarian Law and Humanitarian Intervention
- Case Study: OIF and OEF
- Lecture #18 – Human Rights and Terrorism
- Lecture #19 – Case Study on Syria
-

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?*
- *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.*

Reading Assignments:

Michael, Abramowitz. "Are Syria's Civilians Our Responsibility?" The Washington Post, Sept 8, 2013.

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. 9777-992.

"Both Sides in Syria Accused of Committing War Crimes." New York Times, Mar 13, 2013.

Day #8, 30 Oct 2013 – Human Rights and the United States

Lectures:

- Lecture #20 – Case Study: Human Rights in the US
- Lecture #21 – Case Study: Operation Iraqi Freedom (Iraq) and Operation Enduring Freedom (Afghanistan)
- Lecture #22 – Human Rights and the Global War on Terror (GWOT)

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

Reading Assignments:

Crawford, Neta C. "Just War Theory and the U.S. Counterterror War." *Perspectives on Politics*, Vol 1, no. 1 (March 2003), pps 5-25.

Kahl, Colin H. "In the Crossfire or the Crosshairs: Norms, Civilian Casualties, and U.S. Conduct in Iraq." *International Security*, Vol 32, no 1 (Summer 2007), pp 7-46.

Scott Shane, "U.S. Engaged in Torture after 9/11, Review Concludes." New York Times, April 16, 2013.

Charlie Savage, "US Law May Allow Killings, Holder Says." New York Times, March 5, 2012.

Day #9, 31 Oct 2013 – Case Studies

Lectures:

- Lecture #23 – Case Study: Military and Police in Brazil
- Lecture #24 – Case Study: Military in Domestic Law Enforcement in Mexico
- Lecture #25 – Case Study: Peru and Transitional Justice after the Fujimori Era

Reading Assignments:

Simon Romero, "Alarm Grows in Sao Paulo as More Police Officers are Murdered." New York Times, October 2, 2012.

Burt, Jo-Marie. "Guilty As Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations." *The International Journal of Transitional Justice*, Vol 3, 2009, 384-405.

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

Latin American Herald Tribune, "Human Rights Watch Rips Mexico for Rights Abuses by Military." January 24, 2012.

Discussion Questions:

- *What are the principal challenges of human rights enforcement in contemporary domestic law enforcement operations in Latin America?*
- *What are the major issues that stand out as the toughest challenges for human rights for the future?*

Day #10, 26 Apr 2013 – Course Wrap-Up and Graduation

Lectures:

- Lecture #26 – Human Rights in a Globalized World – The Role of NGOs and Multi-National Corporations
- Lecture #27 – Course Wrap Up and Summary

Discussion Questions:

- *What are the major issues that stand out as the toughest challenges for human rights for the future?*
- *To what extent may NGOs participate in the work of UN bodies?*
- *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?*
- *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?*

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?*

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?*

<u>Reading Assignments:</u>

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

Keck, Margaret and Kathryn Sikkink. "Human Rights Advocacy Networks in Latin America," pages 79-120. From <u>Activists Without Borders</u> (Cornell Univ Press: Ithaca, 1998).

James Stavridis, “The Dark Side of Globalization.” Washington Post, May 31, 2013.

Richard Feinberg, “How to Fulfill the Promise of CSR,” Americas Quarterly, Winter 2008, pps 41-50.