

PT357 Critical Human Rights Practice / Global Legal Action Network (GLAN)

Seminar Leader: Dr Valentina Azarova
Course Times: Mondays 14:00-17:15
Email: v.azarova@berlin.bard.edu
Office Hours: Mondays 17:15-18:45, or by appointment

Course Description

This seminar explores the role of human rights advocates and groups as a community of practice, in light of the growing attacks against civil society, the rise of populism, and the 'crises' experienced and produced by international law. Students will be introduced to the main concepts of international human rights law, the role of lawyers and the law in promoting and consolidating social change, and the dilemmas associated with the strategies and impacts of this practice. We will critically examine the mandates, methods, and theories of change used by rights groups, what could be made of their objectives as a 'movement', and their past and present blind spots towards issues such as global socio-economic inequality, struggles for self-determination, and the legality of war. We will explore case studies through the work and unique approach of the Global Legal Action Network (GLAN), a collective of academics and practitioners that challenges global injustice through innovative legal strategies. Students will engage in hands-on research and advocacy to contribute to GLAN's actions to challenge exploitative transnational corporate dealings that benefit from modern slavery and land grabs, abusive 'migration management' policies, and third states' support to war crimes through arms sales and technical assistance.

Requirements

Attendance

Students are expected to attend all classes. More than two absences (that is absences from two sessions of 90 minutes) in a semester will significantly affect the participation grade for the course. Students should consult the Student Handbook for regulations governing periods of illness or leaves of absence.

Assessment

1) Participation (15%)

All students are expected to come prepared to all weekly seminars, having completed the reading and taken note of points for discussion. Participation in class discussions should be informed, i.e. based on the assigned reading (optionally, independent further research and reading) and show for engagement with the material.

A number of the sessions will include an intervention by a guest speaker. At risk of stating the obvious: Students are expected to act with respect and appreciation for the guest speaker who would have taken time out of their busy schedule to contribute to the class by coming prepared to engage in a

discussion of the assigned reading as well as any additional material assigned by the speaker (in some cases these will be confirmed through Google Classroom).

Tardiness to class is unacceptable(!). If you need to come to a class late or to miss a class, please notify me in advance. In accordance with the Student Handbook, a failing grade for the course will be given if absences reach 30% of the course meetings. Students should consult the Student Handbook for regulations governing periods of illness or leaves of absence.

2) Critical Reflection Diary (and Conceptual Glossary) (20%)

Dedicate a notebook to the course, where you will take detailed and reflective notes on the seminars conducted by guests and the discussions held subsequently. Include a glossary section at the end of each section. The notebooks will be reviewed twice during the term, once before mid-term, and again during completion week (see the schedule for deadlines).

3) Critical Reading Précis and Presentation (10%)

The Critical Reading Précis and Presentation asks each student to take responsibility for leading the class discussion of a critical reading. For each, you should prepare a short (10 minute) presentation to the class going over the main argument(s) and methodology of your assigned reading including key points for discussion and debate, as well as setting out questions that you see the article raise for your GLAN project. The goals are both to help everyone in the class come to a richer understanding of the reading and to facilitate reflection on its implications for our joint activities.

On the day you are scheduled to do a presentation, you should also turn in a 1-2 page written précis laying out the main points and questions of the article. Please note that a written précis is not the same as your notes for a presentation, but a more polished written summary of the reading.

4) Review Essay (15%)

The review essay is an off-spring of your critical reflection diary. The essay should critically review three of the assigned reading materials (eg review articles, reports) through the prism of a set of reflections that advance an argument about the nature of human rights work and the role of human rights NGOs, eg examining the key working assumptions, methods, mandates and theories of change of different actors and their impact on challenging human suffering and structural violence. The essay, approximately 2,500-3,000 words in length, is to be submitted during completion week (see schedule for deadlines).

5) GLAN Mid-Term Dossier (15%) & Final Project Portfolio (25%)

The project work to contribute to GLAN's actions will be undertaken in research teams of 3-4 students that assume different roles: a legal adviser, a communications/media adviser, an advocacy officer and a field researcher. It consists of two main stages of review that aim to develop and begin the implementation of such a contribution: (1) a mid-term dossier that proposes and prepares the groundwork for action-research on a given human rights issue under one of GLAN's work streams, and (2) a final portfolio in the form of a mapping document that sets out the relevant actors, actions and grounds for a new or further challenge of an existing global injustice in line with GLAN's approach. Together, these are assessed at 40% of your grade for the seminar.

For the **mid-term dossier**, the research team will produce a 'dossier' consisting of the following elements: (1) background information, key documents, institutions, experts; (2) research questions and aims (eg what information you would like to discover and why); (3) proposed approach and research methodology with a list of potential interviewees, stakeholders etc. The dossier, approximately 3,000 words in length, should be submitted at mid-term (see schedule for deadlines).

The **final portfolio** is a mapping document that combines information in your mid-term dossier with research and field-work undertaken during the second half of the term, including the following elements: (1) a discussion of known and unknown facts; (2) an analysis of existing legal arguments and challenges made and their impacts; (3) a critical discussion of potential and under-explored advocacy opportunities and targets; and (4) an preliminary exploratory discussion that sets out the proposed advocacy strategy, its methodology and theory of change and plays out its potential impacts. The final document submitted by the group should be approximately 5,000 words in length, and include an introductory section indicating the individual contribution of each student.

Writing Assignments

The course work comprises of two kinds of writing assignments: the first kind of assessment seeks to generate and record reflection on the theoretical and critical analysis of human rights work and human rights NGOs. These include the diary (at least 500 words per entry per week), presentation précis (and review essay).

The other written products completed during the seminar are intended to make a practical contribution to GLAN's unique approach to human rights work. The dossier and portfolio will, depending on the project chosen by the students (and the number of students in a project group), comprising of a research and action proposal some component(s) of which students will endeavor to execute time-permitting. Decisions concerning the content and form of these documents will be made collaboratively and with external input where appropriate.

Policy on Late Submission of Coursework

In accordance with the Student Handbook, essays that are up to 24 hours late will be downgraded one full grade (from B+ to C+, for example). Essays that are more than 24 hours late may be accepted subject to the merits of a given case and proof of extenuating circumstances; in all cases, it must be submitted within four weeks of the deadline and cannot receive a grade of higher than C. Thereafter, you will receive a failing grade for the assignment.

Academic Integrity

In this course, we aim to conduct ourselves as a community of scholars, recognizing that academic study is both an intellectual and ethical enterprise. You are encouraged to build on the ideas and texts of others; that is a vital part of academic life. However, you are also obligated to document every occasion when you use another's ideas, language, or syntax—whether through direct quotation, summary, or paraphrase—by signaling it in the MLA parenthetical format (<http://www.mla.org/style>). Please come to see me if you have any questions about when and how to cite. Even one occasion of academic dishonesty, large or small, on any assignment, large or small, may result in referral to the Examination Board and failure for the entire course.

Grade Breakdown

Participation: 15%

Diary: 20%

Précis and Presentation: 10%

Review Essay: 15%

GLAN mid-term dossier: 15%

GLAN final portfolio: 25%

Schedule

****Please note that this schedule is subject to changes that will be announced via email and Google Classroom, where all assigned and some optional reading materials will be made available.****

Week One

Mon 28 January

Introduction to the Course and to GLAN, and Project Selection

Guest speaker: Dr Gearoid O Cuinn (via Blue Jeans link)

Reading:

- GLAN, 'Our Work' <https://www.glanlaw.org/our-work>
- GLAN, 'Theory of Change' (draft document)
- GLAN, 'Actions Overview' (internal document)

Assignment:

- Write a 1-2 page personal statement due Wednesday, 30 January, addressing: (1) your hopes and goals for the seminar in terms of the issues and skills you would like to discuss and develop; (2) the obstacles or difficulties you foresee in the attainment of your hopes and goals and how you might address them; (3) the skills and experience you aim to share with other students in the clinic.

Week Two

Mon 4 February

The State of the Art of 'Human Rights Work' and 'Human Rights NGOs'

- Henry Steiner and Philip Alston, *International Human Rights in Context* (Oxford UP 2011) (Chapter 11: Civil Society: Human Rights NGOs and Other Groups) pp 938-976
- Steve Charnovitz, 'Nongovernmental Organizations and International Law' *American Journal of International Law* 100(2) (2006) pp 348-372
- Skim: George Edwards, 'Assessing the Effectiveness of Human Rights NGOs from the Birth of the UN to the 21st Century' 18 *Michigan State Journal of International Law* (2009 - 2010) pp 169-192
- (Optional) Valentina Azarova, 'Guardians, Adjudicators and Enforcers: NGOs and Customary International Law-Making' in Droubi & d'Aspremont, *Perspectives on Non-State Actors and Customary International Law* (forthcoming Manchester UP 2019)

Week Three

Mon 11 February

On the Appeal to (International) Law for Progressive Purposes and Its Discontents

- Matthew Craven et al., 'We are Teachers of International Law' *Leiden Journal of International Law* 17(2) (2004) p 363
- Duncan Kennedy, 'The Stakes of Law, or Hale and Foucault!' 15 *Legal Studies Forum* (1991) p 327
- Benjamin Authers and Hilary Charlesworth, 'The Crisis and the Quotidian in International Human Rights Law' (2013) 44 *Netherlands Yearbook of International Law* 19 (*see also: Hilary Charlesworth, 'International Law: A Discipline of Crisis' *Modern Law Review* 65(3) (2002) p 377)
- Jacques Vergés, 'There is No Such Thing as Absolute Evil', *Der Spiegel*, 21 November 2008 <http://www.spiegel.de/international/world/interview-with-notorious-lawyer-jacques-verges-there-is-no-such-thing-as-absolute-evil-a-591943.html>
- (Optional) Anne Orford, 'Embodying Internationalism: The Making of International Lawyers' 19 *Australian Year Book of International Law* (1998) 1

Week Four

Mon 18 February

What NGOs Do: The Means and Methods of Human Rights Work

Reading:

- Ron Dudai, “Can You Describe This?” Human Rights Reports and What They Tell Us About the Human Rights Movement’, in Wilson & Brown eds, *Humanitarianism and Suffering: The Mobilisation of Empathy* (2009) 245
- Keenan, ‘Mobilizing Shame’, *South Atlantic Quarterly*, 103 (2-3), 2004, pp. 435-449
- Hurst Hannum, ‘Implementing Human Rights: An Overview of NGO Strategies and Available Procedures’, *Guide to International Law Practice* (Transnational Publishers Inc., 2004) 19-39
- (Optional) Advocates for Human Rights, *Human Rights Tools for a Changing World*, 2015, Ch. 2, ‘Human Rights Background’: <http://TheAdvocatesForHumanRights.org/Change>
- (Optional) Lindsey N Kingston and Kathryn R Stam, ‘Online Advocacy: Analysis of Human Rights NGO Websites’ *Journal of Human Rights Practice* 5(1) (2013) 46-74

Week Five

Mon 25 February

What NGOs Don’t Do: The ‘Taboos’ of NGO Work – War, Revolution, and Global Economy

Reading:

- Clio Chang and Ryan Grim, Major Liberal Groups Sat on Sidelines As Senate Passed Historic Resolution on Yemen War, *The Intercept*, 23 December 2018
<https://theintercept.com/2018/12/23/yemen-war-resolution-vote-senate/>
- Ryan Goodman, Why the Laws of War Apply to Drone Strikes Outside “Areas of Active Hostilities” (A Memo to the Human Rights Community), *Just Security*, 4 October 2017
<https://www.justsecurity.org/45613/laws-war-apply-drone-strikes-areas-active-hostilities-a-memo-human-rights-community/> (and responses thereto eg
<https://www.lawfareblog.com/reframing-debate-response-ryan-goodmans-memo-human-rights-community>)
- Kenneth Anderson and Benjamin Wittes, Three Deep Flaws in Two New Human-Rights Reports on U.S. Drone Strikes, *New Republic*, 23 October 2013
<https://newrepublic.com/article/115329/amnesty-international-human-rights-watch-drone-reports-are-flawed>
- (Optional) Peter Baehr, ‘Amnesty International and Its Self-imposed Limited Mandate’, *Netherlands Quarterly of Human Rights* (1994)
- Ellen Dorsey, *Managing Change: Amnesty International and Human Rights NGOs* (SIM 2011) pp 181-220
https://www.uu.nl/sites/default/files/sim-special-36_50_years_of_amnesty_international.pdf
- Peter Rosenblum on *Law & Political Economy* blog <https://lpeblog.org/category/not-enough-symposium/> (on Samuel Moyn, *Not Enough: Human Rights in An Unequal World* (Harvard UP 2018))
- (Optional) Theo Boutruche, ‘Selecting and Applying Legal Lenses in Fact-Finding Work’ in Grace and Bruderlein eds., *Investigating International Law Violations* (Cambridge UP 2017), Chapter 2.

Week Six

Mon 4 March

What NGOs Do Does: A Critique of Human Rights-Based Advocacy

Reading:

- Frédéric Mégret, “Where Does the Critique of International Human Rights Stand? An Exploration in 18 Vignettes” in José María Beneyto and David Kennedy (eds), *New Approaches to International Law* (TMC Asser, 2013)

- Susan Marks, “Human Rights and Root Causes” (2011) 74(1) *Modern Law Review* 57
- Paul O’Connell, ‘Human Rights: Contesting the Displacement Thesis’ <http://criticallegalthinking.com/2015/06/18/human-rights-contesting-the-displacement-thesis/> (optional: 69(1) *Northern Ireland Legal Quarterly* (2018) 19)
- (Optional) Talal Asad, “What human rights do?” *Theory & Event* 4 (4) (2000)
- (Optional) Emilie Hafnor-Burton and James Ron, “Seeing Double: Human Rights Impact through Quantitative and Qualitative Eyes” 61 (2009) *World Politics* 360-401 (without all references)
- (Optional) Anna Stavrianakis ‘Missing the target: NGOs, global civil society and the arms trade’ *Journal of International Relations and Development* 15 (2012) pp 224–249

Week Seven

Mon 11 March

Critiquing the Critique(s) of Human Rights and of NGO Work

Guest lecture: Allison West, PhD Researcher, Free University Berlin

Reading:

- Christine Bell, ‘Human rights and the struggle for change: A study in self-critical legal thought’ in Rob Dickinson et al (eds), *Examining Critical Perspectives on Human Rights* (Cambridge UP 2012) (responding to Kennedy in same volume), ‘The Human Rights Movement: Still Part of the Problem?’
- Grainne de Burca, ‘Human Rights Experimentalism’ *American Journal of International Law* 111(2) (2017) pp 277-316
- Lynn Welchman ‘Human rights, law and politics: a reflection on human rights work in the Middle East and North Africa’ in Chase ed., *Routledge Handbook on Human Rights and the Middle East and North Africa* (Routledge 2016) pp. 502-511 (see accompanying SOAS inaugural lecture: <https://www.youtube.com/watch?v=eGI800TsNEQ>)
- (Optional) Balakrishnan Rajagopal, ‘Counter-Hegemonic International Law: Rethinking Human Rights and Development as a Third World Strategy’ *Third World Quarterly* 27(5) (2006) 767

Week Eight

Mon 18 March

Dilemmas of Human Rights Work

- Ron Dudai, ‘Introduction—Rights Choices: Dilemmas of Human Rights Practice’ *Journal of Human Rights Practice* 6(3) (2014) 389
- David Petrusek, ‘Human Rights – The Last Big Thing?’, *Journal of Human Rights Practice* 3(5) (2011) pp 105-112
- Philip Alston, ‘The Populist Challenge to Human Rights’ *Journal of Human Rights Practice* 9 (2017) pp 1–15
- (Optional) Dean Spade, ‘Laws as Tactics’, 21 *Columbia Journal of Gender & Law* (2011-2012) 40
- (Optional) C Bettinger-Lopez et al ‘Redefining Human Rights Lawyering Through the Lens of Critical Theory: Lessons for Pedagogy and Practice’, 18 *Georgetown Journal on Poverty Law and Policy* 337
- (Optional) Stephen Ellmann ‘Struggle and legitimation’ *Law & Social Inquiry* 20(2) (1995) pp 339-348
- (Optional) Daniel A Bell and Joseph H Carens, ‘The Ethical Dilemmas of International Human Rights and Humanitarian NGOs: Reflections on A Dialogue Between Practitioners and Theorists’ *Human Rights Quarterly* 26 (2004) pp 300-329

Week Nine

Mon 25 March

GLAN's Approach to Legal Action: Processes of Structural Violence and Complicity Structures in the Transnational Space

Reading:

- Peer Zumbansen, 'Defining the space of transnational law: legal theory, global governance, and legal pluralism' *Transnational Law & Contemporary Problems* 21 (2012) 305 (see also: Peer Zumbansen, 'Transnational law' *Encyclopaedia of Comparative Law* (2006) pp 738-754)
- Tomaso Ferrando 'Land Rights at the Time of Global Production: Leveraging Multi-Spatiality and 'Legal Chokeholds' *Business and Human Rights Journal* 2(2) (2017) pp 275-295
- Ioannis Kalpouzou and Itamar Mann, 'Banal Crimes Against Humanity: The Case of Asylum Seekers in Greece' *Melbourne Journal of International Law* 16(1) (2015)
- (Optional) Eva Pils, 'In Whose Service? The Transnational Legal Profession's Interaction with China and the Threat to Lawyers' Autonomy and Professional Integrity', *Fordham International Law Journal* 45(5) (2018) pp 1263-1291
- (Optional) Gearóid Ó Cuinn & Sigrun Skogly, 'Understanding human rights obligations of states engaged in public activity overseas: the case of transnational education' *International Journal of Human Rights* (2016) pp 1-17
- (Optional) Cortelyou C. Kenney, 'Measuring Transnational Human Rights', *84 Fordham Law Review* (2015) pp 1053-1115

Fri March 29 (or before mid-term) **Mid-Term Dossiers & Reflection Diaries due**

Week Ten

Mon 1 April

Case Study I: Documenting, Reporting and 'Shaming' Rights Abusers

Guest lecture: Dr. Bill van Esveld, Senior Researcher on Children's Rights, Human Rights Watch

Reading:

- Ron Dudai, 'A to Z of Abuses: 'State of the Art' in Global Human Rights Monitoring' *Development and Change* 38(6) (2007) 1255
- Margaret L. Satterthwaite, and Justin Simeone, 'An Emerging Fact-Finding Discipline? A Conceptual Roadmap for Social Science Methods in Human Rights Advocacy' in Philip Alston & Sarah Knuckey, eds., *The Future of Human Rights Fact-Finding* (Oxford UP 2015) http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2468261.
- (Optional) Wolfgang Kaleck and Carolijn Terwindt, 'Non-Governmental Organisation Fact-Work: **Not only a technical problem,**' in Bergsmo ed., *Quality Control in Fact-Finding*
- International Bar Association, *The Lund-London Guidelines: Guidelines on International Human Rights Fact-Finding Visits and Reports* https://www.ibanet.org/Fact_Finding_Guidelines.aspx
- Eyal Weizman, 'Forensic Architecture', Lecture, Haus der Kunst, 10 November 2018 www.youtube.com/watch?v=Bc49ppFXG1w
 - (Optional) Eyal Weizman, *Forensic Architecture: Violence at the Threshold of Detectability* (Zone 2017)
 - Browse www.forensicarchitecture.org

Week Eleven

Mon 8 April

Case Study II: Strategic Litigation and the International Criminal Justice Project

Guest lecture: Prof. Dr. Chantal Meloni, Senior Legal Advisor, European Centre for Constitutional and Human Rights

Reading:

- William Langewiesche, *The Accuser*, *The Atlantic*, 11 October 2018
<https://www.theatlantic.com/magazine/archive/2005/03/the-accuser/303722/>
- Helen Duffy, 'Litigating Modern Day Slavery in Regional Courts: A Nascent Contribution' *Journal of International Criminal Justice* 14(2) (2016) pp 375-403
 - (Optional) Open Society Foundations, *Global Human Rights Litigation Report*, March 2013 <http://www.opensocietyfoundations.org/reports/global-human-rights-litigation-report>
 - (Optional) Helen Duffy 'Litigating Modern Day Slavery in Regional Courts: A Nascent Contribution' *Journal of International Criminal Justice* 14(2) (2016) pp 375-403
- Frederic Megret, 'International Criminal Justice as a Peace Project' *European Journal of International Law* (2018) pp 835-858
- Skim: ECCHR annual report 2017 <https://www.ecchr.eu/en/publication/ecchr-annual-report-2017/>

Spring Break (15-22 April)

Week Twelve

Mon 29 April

Case Study III: GLAN's Work on Violence Against Migrants (tbc)

Guest lecture: Dr. Itamar Mann, Haifa University (via video link)

Reading:

- Itamar Mann, 'Maritime Legal Blackholes: Migration and Rightlessness in International Law', *European Journal of International Law* (2017)
- GLAN & Stanford clinic ICC Submission <https://www.glanlaw.org/single-post/2017/02/13/Communication-made-to-International-Criminal-Court-requesting-investigation-of-Australia-and-corporate-contractors>
- Kalpouzos and Mann, 'The Banality of Crimes Against Migrants', *Der Spiegel*, 27 October 2017
<http://www.spiegel.de/international/world/editorial-on-crimes-against-migrants-a-1175239.html>
- 'Libya: child refugees abused in UK-funded detention centres', *The Guardian*
<https://www.theguardian.com/world/2018/nov/20/child-refugees-facing-abuse-in-libyan-detention-centres>

Week Thirteen

Mon 6 May

Presentations & Discussion of Final Portfolios

Week Fourteen

Mon 13 May (Completion Week)

Coursework Deadlines

Course Work Deadlines

Diary: Tuesday 14 May 2019 (completion week)

Précis and presentation: as assigned during Week Two.

Review essay: Tuesday 14 May 2019 (completion week)

GLAN mid-term dossier: Friday 29 March 2019

GLAN final portfolio: Thursday 16 May 2019