

# INTERNATIONAL HUMAN RIGHTS LAW: FROM THEORY TO PRACTICE

**Teachers(s): Dr. Theo Boutruche**

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## BIOGRAPHICAL INFORMATION

Dr. Theo Boutruche is an international lawyer, specialized in international human rights law (IHRL) and international humanitarian law (IHL), in particular, conduct of hostilities, law of targeting, law of occupation, and regulation of weapons, transitional justice as well as international criminal law (ICL). He received his joint PhD in public international law from the Graduate Institute of International and Development Studies (Switzerland) and from the Aix-Marseille Law Faculty (France). He also holds a Master of Advanced Studies in International Relations from the University of Geneva.

He is currently a legal adviser with the MENA Programme of the International Commission of Jurists. He has previously worked as an employee or as a consultant for various organisations such as Freedom from Torture, Diakonia, REDRESS, Amnesty International, the ICTJ, Save the Children and the UN Office of the High Commissioner for Human Rights. He conducted research and fact-finding work in conflict and post-conflict settings such as Palestine, Lebanon, Iraq, Georgia, DR Congo, Uganda, and Kenya. He was the IHL/Human Rights Expert of the Independent International Fact-Finding Mission on the Conflict in Georgia. He was also a member of the Harvard Group of Professionals on Monitoring, Reporting and Fact-finding and contributed as an expert to the drafting of the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Basic Standards of Best Practice on the Documentation of Sexual Violence.

He also has extensive experience in teaching international law in various universities, including at the University College London. He published several articles in law reviews and contributions to books on international law related issues. His Ph.D. thesis on “The Prohibition of Superfluous Injury or Unnecessary Suffering in International Humanitarian Law” was awarded the 2009 ICRC Paul Reuter Prize for international humanitarian law.

## COURSE OUTLINE

### Session 1: Introduction – The foundation and history of human rights: Towards the end of human rights?

#### Required readings:

- Stephen Hopgood, “The End of Human Rights”, OpEd, *The Washington Post*, 3 January 2014, available at: [http://www.washingtonpost.com/opinions/the-end-of-human-rights/2014/01/03/7f8fa83c-6742-11e3-ae56-22de072140a2\\_story.html](http://www.washingtonpost.com/opinions/the-end-of-human-rights/2014/01/03/7f8fa83c-6742-11e3-ae56-22de072140a2_story.html)
- “Have Human Rights Treaties Failed?”, *The New York Times*, 28 December 2014, available at: <http://www.nytimes.com/roomfordebate/2014/12/28/have-human-rights-treaties-failed>

### Session 2: The normative framework of IHRL

#### Required readings:

- Ilias Bantekas and Lutz Oette, *International Human Rights Law and Practice*, CUP, Cambridge, 2013, pp. 50-78.
- Human Rights Committee, General Comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, 29 March 2004, available at :<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsjYoiCfMKoIRv2FVaVzRkMjTnjRO%2Bfud3cPVrcM9YR0iW6Txaxgp3f9kUFpWoq%2FhW%2FTpKi2tPhZsbEJw%2FGeZRASjdFuuJQRnbJEaUhby31WiQPI2mLFDe6ZSwMMvmQGVHA%3D%3D>
- Information Note on the European Court of Human Rights’ case-law, No 143, READ ONLY the parts on: ECHR, *Al-Skeini and Others v. the United Kingdom* [GC], 55721/07, Judgment 7 July 2011, available at : [http://www.echr.coe.int/Documents/CLIN\\_2011\\_07\\_143\\_ENG\\_889484.pdf](http://www.echr.coe.int/Documents/CLIN_2011_07_143_ENG_889484.pdf)

### Session 3: Mechanisms of the United Nations Charter and Treaty-based bodies

#### Required readings:

Browse through: <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

- Joanna Harrington, “UN Human Rights Council Brings to an End the First Cycle for Universal Periodic Review”, *EJIL: Talk!*, 27 February 2012, available at : <https://www.ejiltalk.org/un-human-rights-council-brings-to-an-end-the-first-cycle-for-universal-periodic-review>

### Session 4: Regional Human Rights Mechanisms

#### Required readings:

- Ilias Bantekas and Lutz Oette, *International Human Rights Law and Practice*, CUP, Cambridge, 2013, pp. 219-271.
- Press release, Redress, African Commission finds Zimbabwe responsible for torture of a human rights lawyer, Banjul, The Gambia, 22 March 2013, available at : <http://www.redress.org/downloads/GabrielShumba-220313-final.pdf>

## **Session 5: The Right to life**

### **Required readings:**

- Human Rights Committee, Draft general comment No. 36 - Article 6: Right to life, Draft prepared by Yuval Shany and Nigel Rodley, Rapporteurs, available at (under the section "Outcome"):  
<http://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC36-Article6Righttolife.aspx>

## **Session 6: The prohibition of torture and other cruel and inhuman treatment**

### **Required readings:**

- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:  
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>
- UN Voluntary Fund for Victims of Torture, The interpretation of torture in the light of the practice and jurisprudence of international bodies, 2011, available at:  
[http://www.ohchr.org/Documents/Issues/Torture/UNVFVT/Interpretation\\_torture\\_2011\\_EN.pdf](http://www.ohchr.org/Documents/Issues/Torture/UNVFVT/Interpretation_torture_2011_EN.pdf)

## **Session 7: Freedom of expression and freedom of conscience and religion**

### **Required readings:**

- Human Rights Committee, General Comment No. 22, The right to freedom of thought, conscience and religion (Art. 18), 1993, available at: <http://www.refworld.org/docid/453883fb22.html>
- Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, 2011, available at: <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>
- Court of Justice of the European Union PRESS RELEASE No 30/17, Luxembourg, 14 March 2017 - Judgments in Cases C-157/15 Achbita, Centrum voor Gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions, and C-188/15 Bougnaoui and Association de défense des droits de l'homme (ADDH) v Micropole Univers, available at:  
<http://curia.europa.eu/jcms/upload/docs/application/pdf/2017-03/cp170030en.pdf>

## **Session 8: Prohibition of discrimination**

### **Required readings:**

Browse through:

- <http://www.ohchr.org/EN/Issues/Discrimination/Pages/discrimination.aspx>  
Committee on the Elimination of Discrimination against Women (CEDAW), General
- recommendation on women's access to justice, CEDAW/C/GC/33, 23 July 2015, available at:  
[http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/CEDAW\\_C\\_GC\\_33\\_7767\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf)

## **Session 9: Economic, Social and Cultural Rights**

### **Required readings:**

- Ilias Bantekas and Lutz Oette, *International Human Rights Law and Practice*, CUP, Cambridge, 2013, pp. 366-389.
- Committee on Economic, Social and Cultural Rights, General Comment No. 15 (2002), The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), available at : [http://www2.ohchr.org/english/issues/water/docs/CESCR\\_GC\\_15.pdf](http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf)

## **Session 10: Human Rights in Armed Conflicts and State of Emergencies**

### **Required reading:**

- Human Rights Committee, General Comment 29: States of Emergency (Article 4), CCPR/C/21/Rev.1/Add.11.
- Marco Sassòli and Laura M. Olson, "The relationship between international humanitarian and human rights law where it matters: admissible killing and internment of fighters in non-international armed conflicts", in *IRRC*, Volume 90, Number 871, September 2008, available at : <https://www.icrc.org/eng/resources/documents/article/review/review-871-p599.htm>

### **Case Study on drones:**

- Dapo Akande, Christof Heyns, Lawrence Hill-Cawthorne and Thompson Chengeta, "The international law framework regulating armed drones", *ICLQ* vol 65, October 2016 pp 791–827, available at: [https://www.cambridge.org/core/services/aop-cambridgecore/content/view/E92C0FCA200F667633B0C3686A9EDE3C/S0020589316000385a.pdf/international\\_law\\_framework\\_regulating\\_the\\_use\\_of\\_armed\\_drones.pdf](https://www.cambridge.org/core/services/aop-cambridgecore/content/view/E92C0FCA200F667633B0C3686A9EDE3C/S0020589316000385a.pdf/international_law_framework_regulating_the_use_of_armed_drones.pdf)

## **Session 11: Recovering from Atrocities in Post-Conflict Environments: Human Rights Fact-Finding and Transitional Justice**

### **Required readings:**

- Guidance Note of the Secretary-General (2010), *United Nations Approach to Transitional Justice*, at: [http://www.unrol.org/files/TJ\\_Guidance\\_Note\\_March\\_2010FINAL.pdf](http://www.unrol.org/files/TJ_Guidance_Note_March_2010FINAL.pdf)
- McAdams A (2011) "Transitional Justice: The Issue that Won't Go Away", *5 International Journal of Transitional Justice*, no. 2, pp. 304-312
- Office of the United Nations High Commissioner for Human Rights (2010) *Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003. – SUMMARY*, at: [http://www.ohchr.org/Documents/Countries/ZR/DRC\\_MAPPING\\_REPORT\\_FINAL\\_EN.pdf](http://www.ohchr.org/Documents/Countries/ZR/DRC_MAPPING_REPORT_FINAL_EN.pdf)

## **Session 12: Human Rights and Intervention: A Responsibility to Protect?**

### **Required readings:**

- Ben Saul, "US Missile Strikes Expose the Untenable Status Quo in International Law", 27 April 2017, available at: [https://www.chathamhouse.org/expert/comment/us-missile-strikes-expose-untenable-status-quo-international-law?utm\\_source=Chatham+House&utm\\_medium=email&utm\\_campaign=8242097\\_2017+US%26AP%2C+Trump%27s+100+days+newsletter&dm\\_i=1S3M%2C4WNN5%2CNUSTFI%2CILJXA%2C1#](https://www.chathamhouse.org/expert/comment/us-missile-strikes-expose-untenable-status-quo-international-law?utm_source=Chatham+House&utm_medium=email&utm_campaign=8242097_2017+US%26AP%2C+Trump%27s+100+days+newsletter&dm_i=1S3M%2C4WNN5%2CNUSTFI%2CILJXA%2C1#)
- Chris O'Meara, "United States' Missile Strikes in Syria: Should International Law Permit Unilateral Force to Protect Human Rights?", 18 April 2017, available at: <https://www.ejiltalk.org/united-states-missile-strikes-in-syria-should-international-law-permit-unilateral-force-to-protect-human-rights/#more-15163>
- Daniel Bethlehem, "Stepping Back a Moment – The Legal Basis in Favour of a Principle of Humanitarian Intervention", 12 Sept. 2013, EJIL Talk!, at: <http://www.ejiltalk.org/stepping-back-a-moment-the-legal-basis-in-favour-of-a-principle-of-humanitarian-intervention>