

課程教學大綱

開設學年度/學期	114 學年度第 1 學期		
課程名稱(中文)	人權與法律		
課程名稱(英文)	Human Rights and Law		
課 碼 (通識中心填寫)		學分數	2
授 課 方 式	<input checked="" type="checkbox"/> 課堂上課 <input type="checkbox"/> 網路教學 <input type="checkbox"/> 其他_____		
課程概述	<p>Despite human rights issues are emerging as an important subject of study in Taiwan, relatively few universities offered a course on international human rights law. Most law schools in Taiwan still do not teach the subject. Clearly, the lack of interested instructors on law school faculties is a serious obstacle to increasing the number of international human rights law offerings. A basic international human rights course should be open to both law school students and university graduate students, and undergraduates as well.</p> <p style="text-align: center;">This course provides a comprehensive overview of international, regional and national systems for protecting human rights, and of the relationship between them. This course will both examine the difficulties and controversies in enforcing human rights, and provide an examination of how particular human rights abuses are addressed in practice. This course will also examine specialist regimes such as those relating to women, children and indigenous peoples. This course aims to be useful to those interested in human rights and legal practice.</p>		
與通識教育核心精神之關聯性	<p>This course adopts the following strategies & pedagogies:</p> <ul style="list-style-type: none"> -- Using English as a tool of communication -- Employing law as the last resort -- Problem-based and case-led seminars -- Learning by doing & team work collaboration -- Independent thinking & reflective dialectics -- Interactive teaching & active learning -- Multi-cultural interactions and multi-linguistic dialects -- Interdisciplinary analyses & pluralistic solutions 		

	週次	主題	內容
授課大綱 (須含週次表及每週課程進度說明)	一	Looking at Rights 課程簡介	介紹課程基本理念、教學目標、進行方式與評量方式
	二	The Historical Development of International Human Rights 人權發展	專題研討與分組討論 「法律意義之人權」與「道德意義之權利」之分析
	三	The Theory, Conceptual origins and Jurisprudence 人權理論	專題研討與分組討論 重要人權理論之比較分析
	四	Human Rights Foreign Policy and the Role of the United Nations 人權落實	專題研討與分組討論 權利之執行機制
	五	Legitimate Restrictions on Freedom 人權種類	專題研討與分組討論 「絕對權」與「非絕對權」之區別
	六	The Right to Life and the Death Penalty 人權與生命	專題研討與分組討論 死刑有無違反生命權？
	七	The Right to Privacy 隱私權	專題研討與分組討論 隱私權之起源與範圍
	八	The Right to Fair Trial 公平審判權	專題研討與分組討論 探索公平審判權之內涵
	九	The International Crime of Torture 免於遭受酷刑權	辯論賽 應允許預防性酷刑/不應允許預防性酷刑
	十	Rights of Accused 被告之權利	專題研討與分組討論 被告應享之權利
	十一	The Right to be Free of Domestic Violence 免於遭受家暴權	專題研討與分組討論 台灣家庭暴力問題
	十二	Children's Rights 兒童權	專題研討與分組討論 兒童權之內涵
	十三	Mental Health and Civil Rights	專題研討與分組討論

	人權與健康	心智功能障礙者所面臨之困境
十四	Freedom of Information 資訊自由	專題研討與分組討論 公民有權獲得國家資訊
十五	期末報告	
十六	期末報告	

教科書及參考書

Books / Articles

F. Klug (2009), 'The Universal Declaration of Human Rights: 60 years on', Public Law, pp 205-217

J. Straw (2010). 'The Human Rights Act – ten years on', European Human Rights Law Review, 6, pp. 576-581.

M. Forowicz, 'Introduction', in M. Forowicz (2010), The reception of International Law in the European Court of Human Rights', OUP, pp 1-7.

News update:
<http://www.scotsman.com/edinburgh-evening-news/health/margo-macdonald-among-20-mmps-backing-new-proposal-to-legalise-assisted-suicide-1-2534831>

MacDonald, M. MSP, Consultation on an Assisted Suicide (Scotland) Bill
http://www.scottish.parliament.uk/S4_MembersBills/Final_version_as_lodged.pdf

Summary of responses:
http://www.scottish.parliament.uk/S4_MembersBills/Assisted_Suicide_Summary_of_consultation_responses_Final_v.2.pdf

Scottish Parliament Information Centre (SPICe) Briefing (note that the final part refers to the previous bill that was not finally enacted but the discussion is also of interest for the current consultation).
<http://www.scottish.parliament.uk/SPICeResources/Research%20briefings%20and%20fact%20sheets/SB10-51.pdf>

Comments:

Harmon, S. and Sethi, N. (2011), 'Preserving Life and Facilitating Death: What Role for the Government after Haas v. Switzerland?', *European Journal of Health Law* 18 (2010), pp. 355-364.

Laurie, G. and Mason, J.K. (2010), 'Assistance in dying or Euthanasia? Comments on the End of Life Assistance (Scotland) Bill', *Edinburgh Law Review*, 14(3), pp. 493-497.

Chalmers, J. (2010), 'Assisted suicide: jurisdiction and discretion', *Edinburgh Law Review*, 14 (2), pp. 295-300.

English, R. (2012), 'BC Supreme Court grasps the nettle in right to die case', *UK Human Rights Blog*
<http://ukhumanrightsblog.com/2012/06/21/bc-supreme-court-grasps-the-nettle-in-right-to-die-case/>

Dupre, C. (2009) 'Unlocking human dignity: towards a theory for the 21st Century', *European Human Rights Law Review*, 2009 (2), pp. 190-205.

Additional Reading:

Graeme Laurie, J. Kenyon Mason (2010), 'Euthanasia and assistance in dying', in *Law and Medical Ethics*, 8th ed., OUP, pp. 565-610.

Scottish Parliament Official Report, End of Life Assistance (Scotland) Bill Committee, 7 December 2010, col 69:

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/21272.aspx>.

Lord Falconer (2010), 'Report of the Commission on Assisted Dying in England and Wales' <http://www.demos.co.uk/publications/thecommissiononassisteddying>

The Crown Prosecution Service (England and Wales) (2010), 'Policy for Prosecutors in respect of Cases of Encouraging or Assisting Suicide'

http://www.cps.gov.uk/publications/prosecution/assisted_suicide.html +

Cape, Ed and others (eds) (2007), *Suspects in Europe: Procedural Rights at the Investigative Stage of the Criminal Process in the European Union* (Intersentia Antwerpen, Oxford).

Cassese, Antonio (1996), *Inhuman States: Imprisonment, Detention and Torture in Europe Today* (Polity Press, Oxford).

Chambliss, William, and Seidman, Robert (1971), *Law, Order and Power* (Addison-Wesley Publishing, Reading).

Dershowitz, Alan (2002), *Why Terrorism Works: Understanding the Threat Responding to the Challenge* (Yale University Press, New Haven).

Duff, Antony (1986), *Trials and Punishment* (Cambridge University Press, Cambridge).

Griswold, Erwin (1955), *The Fifth Amendment Today: Three Speeches* (Harvard University Press, Massachusetts).

Gross, Oren (2003), 'Are Torture Warrants Warranted? Pragmatic Absolutism and Official Disobedience' 88 *Minnesota Law Review* 1481.

Helmholz, R. (1990), 'Origins of the Privilege against Self-incrimination: The Role of the European Ius Commune' 65 *New York University Law Review* 963.

Ho, H.L. (2008), *A Philosophy of Evidence Law – Justice in the Search of Evidence Law* (Oxford University Press, Oxford).

Holdsworth, William (1945), vol. 5 of *A History of English Law* (3rd edn., Methuen, London).

Tony Nicklison case (England):
The Queen(on the application of Tony Nicklinson) v Ministry of Justice [2012] EWHC 2381 (Admin)

Tony Nicklinson v Ministry of Justice [2012] EWHC 304 (QB)
Comments:
<http://ukhumanrightsblog.com/2012/08/16/locked-in-sufferers-challenge-to-ban-on-voluntary-euthanasia-fails-in-the-high-court/>
<http://ukhumanrightsblog.com/2012/03/13/toppled-choked-and-locked-in-where-are-human-rights-when-you-need-them/>

評 量 方 式	(1) Class participation and presentation – 30% (2) Midterm examination – 30% (3) Essay – 40%		
核心能力指標設定	通識課程 核心能力指標	說明 本課程能培養學生此項核心能力者請打✓	(請複選 3~5 項)
	(1)思考與創新	經由課程的訓練與引導設計，使學生能夠進行獨立性、批判性、系統性或整合性等面向的思考，或能以創意的角度來思考新事物。	✓
	(2)道德思辨與實踐	能夠對於社會、文化 相關的倫理或道德議題，進行明辨、慎思與反省，或能實踐在日常生活中。	✓
	(3)生命探索與生涯規劃	能夠主動探索自我的價值或生命的真諦，或能具體實踐在自我生涯的規劃或發展。	✓
	(4)公民素養與社會參與	能夠尊重民主與法治的精神、關心公共事務及議題，或能參與社會事務及議題的討論與決策。	✓
	(5)人文關懷與環境保育	能夠具備同理、關懷、尊重、惜福等人文素養，或能擴及到更為廣泛的環境及生態議題。	✓
	(6)溝通表達與團隊合作	能夠善用各種不同的表達方式進行有效的人際溝通，或能理解組織運作，與他人完成共同的事物或目標。	✓
	(7)國際視野與多元文化	能夠了解國際的情勢與脈動，具備廣博的世界觀，或能尊重或包容不同文化間的差異。	✓
	(8)美感與藝術欣賞	能夠領略各種知識、事物或領域中的美感內涵，或能據此促成具美感內涵之實踐力。	
	(9)問題分析與解決	能夠透過各種不同的方式發現問題，解析問題，或能進一步透過思考以有效解決問題。	✓
說明：課程符合指標內涵之部份內容，即可勾選。請依據課程內涵判定其符合程度，勾選項數以主要的 3~5 項為度。			