



UP-HRC-005 HUMAN RIGHTS AND ALTERNATIVE DISPUTE RESOLUTION

University for Peace Human Rights Centre

Instructor: Alexandru Balas, PhD

30 July - 9 September 2014

Course Code: UP-HRC-005

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ABOUT THE INSTRUCTOR:

University for Peace Human Rights Centre

CONTACTING THE INSTRUCTOR AND FACILITATOR

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COURSE DESCRIPTION:

This course is designed for working professional in NGOs, government, international organizations, businesses, or community leaders interested in addressing human rights violations through alternative dispute resolution (ADR) tools. We will discuss the challenges and opportunities in using ADR tools to address various types of human rights violations from both a theoretical and practical perspective. Practitioners and scholars alike have started to develop an increased interest in the linkages between human rights and alternative dispute resolution. NGOs and international organizations are currently advocating integrated 3rd party interventions in violent conflicts that have both human rights and conflict resolution units closely working together. Throughout this course we will explore the role played by human rights violations at different conflict stages. We will also go beyond political rights, and also analyze the effectiveness of ADR tools in addressing violations of indigenous rights, civil rights in regard to racial, gender, and religious discrimination, business-related human rights, sexual harassment, and child labor. The basics of Online Dispute Resolution (ODR) will be introduced and we will discuss about its potential role in addressing human rights violations.

This course is designed to provide the participants with a comprehensive picture of the links that exist between alternative dispute resolution tools, and human rights violations. The course is divided into four components. The first component (session 1) is to provide some background on the separate but inter-linked fields of human rights, conflict resolution, and ADR. The second component (sessions 2 and 3) analyzes the challenges and opportunities of using ADR in human rights violations from a theoretical perspective but also with example from countries in which ADR mechanisms are used to address human rights violations. The third component (sessions 4 and 5) will present some case studies of facilitation, mediation, and conciliation used for specific indigenous, civil, and business-related rights violations. The fourth component (session 6) introduces online dispute resolution (ODR) mechanisms and looks at the future of ADR/ODR in addressing human rights violations.

The course is based on a dynamic pedagogy including reading materials, online discussions, case studies, and interactive webinars with the instructor.

This e-learning course involves approximately 40 hours of reading, interaction with students and instructor on discussion boards and through face-to-face online communication software, and webinars. The course is based on a participatory, active learning approach, with an emphasis on critical reflection and peer-to-peer learning. The maximum number of course participants is 25. Students who successfully complete the course will receive a Certificate of Participation. It is also possible to be an auditor of the course.

COURSE OBJECTIVES:

At the end of the course, the participants should:

- Be able to differentiate between different ADR tools (mediation, facilitation, conciliation etc.)
- Have a general familiarity with the theoretical and practical challenges and opportunities of integrating ADR tools in human rights violations
- Have a general familiarity with different types of human rights and how to effectively address them through ADR
- Be able to identify and apply ADR tools in their work environment if necessary
- Be able to recreate effective ADR tools for addressing human rights violations
- Be part of an international network of practitioners and scholars interested in using mediation and other ADR tools in addressing human rights violations
- Have a general familiarity with online dispute resolution (ODR) mechanisms

PEDAGOGY

Learners will have access to the course site at www.hrc.upeace.org/classroom with an assigned username and password.

This course uses resources, on-line discussions, webinars, exercises and quizzes as the basis for learning. As the course will place an emphasis on individual learning and research, using the Internet for this will be vital and strongly encouraged.

The course is based on the premise that we learn best by becoming actively engaged around themes and questions related to real life concerns and experience. In this way, discussions and learning are maximised. The discussions are intended to help participants explore the course materials and any relevant issues of interest, and to learn from one another. Active engagement by everyone will help create an active virtual community of learners. Hence, participants in the course will be required to regularly post on the Learning forum.

COURSE FORMAT

The course will consist of six “classroom” weeks. On every Tuesday prior to the beginning of each week (on Wednesday), the instructor will open up the course week, including her brief lecture, and launch discussions in the Forums. Learners are expected to check the course site at the beginning of every course week to be aware of the requirements for the week.

This course uses readings, online discussions, and webinars as the basis for learning. This course is based on the belief that we learn best through active learning. That is why the success of this course depends heavily on your willingness to share your experiences and opinions with your

peers. Second, the assignments will help you link the practice to the theory of alternative dispute resolution and human rights.

There are two types of reading materials: required readings and optional readings. Feel free to print the readings and assemble them in a binder. Please make sure to do the required readings for each week.

The format of the course is as follows:

A. Instructor's Message

Every week you will receive a message from the instructor. This message will contain instructions from the Instructor on what you should expect to do in the week, and any other relevant information, if needed.

B. Readings

The course will use various on-line texts and readings. These are included in the syllabus but are subject to change. Any changes will be indicated in the weekly Instructor's Message so please use the latter as your primary resource for readings.

C. Assignments

Every week there will be specific assignments: working with a partner via Skype, forum questions, etc. The questions are intended to encourage discussion about the assigned readings as well as the sharing of participants' experience and opinions. You are asked to share your opinion with the other participants in the course. Feel free to ask questions from the other participants, disagree with them, and debate over the answers.

D. Instructor's Feedback

Every week, participants will receive collective feedback from the course instructor on the discussion questions posted during the previous week.

E. Webinars

This course will include six 50-minute webinars. The webinars are the only "synchronous" sessions in the course, that is, they require all participants to be on-line at the same time. Generally, these sessions are very much appreciated by course participants yet busy schedules and time differences can sometimes be a challenge. To determine the correct time zone for your participation in these events, please consult <http://www.timeanddate.com/worldclock/converter.html>. Recordings of the webinars will be made available for participants who are unable to attend.

E. Quizzes

Participants will complete two quizzes, during Week 3 and Week 6. Each quiz is intended to assist course participants in gauging their knowledge of critical concepts and issues related to the course objectives. Successful completion of both quizzes is required. *In the event of an unforeseen*

circumstance delaying quiz completion, please contact the course moderator to make alternate arrangements.

F. Exercises

For participants taking the course for 2 academic credits, the course includes a written essay of approximately 2000 to 2500 words. Participants must communicate with the course instructor for finalization of the topic.

COURSE REQUIREMENTS

Participants' main responsibilities in this course are to:

1. keep up with the readings as scheduled;
2. listen to the Instructor's presentation
3. post at least one substantive message on the Learning forum in a minimum of five of the six course weeks;
4. complete both quizzes with a passing score as scheduled; and
5. **For participants taking the course for 2 academic credits**, complete the required Assignment.

Participants taking the course for credits will be graded on the following criteria:

- a. Participation in Discussion Forums: 30%
- b. Quizzes: 20%
- c. Final Exercise: 50%

AUDITORS

“Auditors” take the course for the purpose of self-enrichment and academic exploration. Auditors have access to the course website, including all course resources, such as Instructor's Messages, readings and videos. Auditors are welcome to participate in the webinars and view the discussion forums. However, auditors cannot participate in discussion forums, submit exercises for review by the instructor or attempt quizzes. **Auditors will not receive a certificate upon completion of the course.**

TECHNICAL REQUIREMENTS

It is assumed that participants are comfortable with computer and Internet use. It is recommended to download the **Acrobat Reader** software as some course documents will be in the so-called Portable Document Format (PDF). Acrobat Reader can be downloaded free of charge at: <http://get.adobe.com/reader/>.

Java. In order to participate in the webinars it is necessary to install Java, which can be downloaded from: <http://www.java.com/en/download/index.jsp>. **Headsets or computer speakers** will also be necessary in order to participate in the webinar.

Flash. Some courses include short self-directed modules. It is necessary to enable Adobe Flash, which can be downloaded from: <http://get.adobe.com/flashplayer/>. Self-directed modules launch in a new window.

Anti-virus software. Viruses cannot be transmitted through text-only messages but viruses can be carried in file attachments. UPEACE-HRC will guarantee that files coming from the course website will be virus-free, but it is possible that participants might unintentionally pass on a virus through a file attachment they add to the course website, for example in documents related to assignments. It is the responsibility of all participants to be sure that they have current anti-virus software. Please arrange for this as soon as possible! Widely used anti-virus software are [AVG](#) (free), [McAfee](#) and [Norton](#).

COURSE SCHEDULE:

SESSION 1. Human Rights, Conflict Resolution, and Alternative Dispute Resolution (ADR)

Learning Objectives - In this session I will introduce some of the basic concepts that link and differentiate the activities of the fields of human rights, conflict resolution, and alternative dispute resolution (ADR). I will also provide a brief overview of the role of addressing human rights throughout different conflict stages: conflict prevention, conflict management, and conflict resolution.

Required Readings: Julie Mertus and Jeffrey Helsing. 2006. “Introduction. Exploring the Intersection between Human Rights and Conflict” in Mertus, Julie and Jeffrey Helsing. Human Rights and Conflict. Exploring the Links between Rights, Law, and Peacebuilding. Washington D.C., United States Institute of Peace Press.

Julie A. Mertus and Jeffrey W. Helsing. 2006. “Conclusion. Toward a More Integrated Approach” in Mertus, Julie and Jeffrey Helsing. Human Rights and Conflict. Exploring the Links between Rights, Law, and Peacebuilding. Washington D.C., United States Institute of Peace Press.

Optional Readings and Resources:

Inside Track. 2002. Track Two 11(1)
http://www.ccr.uct.ac.za/archive/two/11_1/intro.html

Mohammed Abu Nimer and Edward Kaufman. 2006. “Chapter 10. Bridging Conflict Transformation and Human Rights. Lessons from the Israeli-Palestinian Peace Process” in Mertus, Julie and Jeffrey Helsing. Human Rights and Conflict. Exploring the Links between

Rights, Law, and Peacebuilding. Washington D.C., United States Institute of Peace Press
<http://fletcher.tufts.edu/chrcr/index.html>

<http://www.berghof-handbook.net/dialogue-series/no.-9-human-rights-and-conflict-transformation/>

SESSION 2. Challenges of Using ADR Tools in Addressing Human Rights Violations

Learning Objectives - In this session we will explore the tensions and possible incompatibilities that exist between human rights and ADR, both at a theoretical level and at the level of the practitioners. We will discuss the tensions between rights-based and interest-based mediation, how ADR can address power imbalances in human rights violations, and the role of ADR blocking systemic change in the adoption of human rights law.

Required Readings: Manikkalingam, Ram. 2006. Is There a Tension Between Human Rights and Conflict Resolution? A Conflict Resolution Perspective, University of Calgary Working Paper 7

[http://www.reliefweb.int/rw/lib.nsf/db900sid/ASAZ-HJCT7/\\$file/agp_Jun2006.pdf?openelement](http://www.reliefweb.int/rw/lib.nsf/db900sid/ASAZ-HJCT7/$file/agp_Jun2006.pdf?openelement)

Ellen L. Lutz . 2006. “Chapter 1. Understanding Human Rights Violations in Armed Conflict” in Mertus, Julie and Jeffrey Helsing. Human Rights and Conflict. Exploring the Links between Rights, Law, and Peacebuilding. Washington D.C., United States Institute of Peace Press.

Optional Readings and Resources:

Michelle Parlevliet. 2002. “Bridging the Divide. Exploring the Relationship Between Human Rights and Conflict Management”, Track Two 11(1):8-43

http://webworld.unesco.org/water/wwap/pccp/cd/pdf/educational_tools/course_modules/reference_documents/issues/bridgingthedivide.pdf

William G. O’Neill. “Mediation and Human Rights”,
<http://www.hdcentre.org/files/Mediationandhumanrights.pdf>

SESSION 3. Advantages of Using ADR Tools in Addressing Human Rights Violations

Learning Objectives - In this session we will discuss the advantages of using mediation and other ADR tools in addressing human rights violations. We will use examples from several countries (Australia, Canada, India etc.) in which ADR tools are used to address various civil rights violations.

Required Readings:

Babbitt, Eileen, Ellen Lutz and Hurst Hannum. "Human Rights and Conflict Resolution from the Practitioners' Perspective." The Fletcher Forum of World Affairs (Winter/Spring 2003), <http://www.peace-justice-conference.info/download/lutz4.pdf>

Tracey Holland. 2010. "Human Rights Education in Peacebuilding", <http://www.du.edu/korbel/hrhw/workingpapers/2010/62-holland-2010.pdf>

Optional Readings and Resources:

Lisa Schirch, "Linking Human Rights and Conflict Transformation: A Peacebuilding Framework" in Mertus, Julie and Jeffrey Helsing (2006). Human Rights and Conflict. Exploring the Links between Rights, Law, and Peacebuilding. Washington D.C., United States Institute of Peace Press.

http://books.google.com/books?id=WwmCazRCfZUC&pg=PA63&dq=Linking+Human+Rights+and+Conflict+Transformation:+A+Peacebuilding+Framework&hl=en&sa=X&ei=rhqbU_6FMI6GyAsk9YDAAw&ved=0CB4Q6AEwAA#v=onepage&q=Linking%20Human%20Rights%20and%20Conflict%20Transformation%3A%20A%20Peacebuilding%20Framework&f=false

Janet E. Lord and Nancy Flowers. "Chapter 15. Human Rights Education and Grassroots Peacebuilding" in Mertus, Julie and Jeffrey Helsing. Human Rights and Conflict. Exploring the Links between Rights, Law, and Peacebuilding. Washington D.C., United States Institute of Peace Press. Excerpts Available at:

<http://books.google.com/books?id=WwmCazRCfZUC&pg=PA431&lpg=PA431&dq=Human+Rights+Education+and+Grassroots+Peacebuilding&source=bl&ots=bfYoy40Szo&sig=FGj9GyOl4UZSEedNOZD-PqSoDDE&hl=en&sa=X&ei=VBibU46aCdOuyASs-4DgCA&ved=0CD8Q6AEwBA#v=onepage&q=Human%20Rights%20Education%20and%20Grassroots%20Peacebuilding&f=false>

Carnegie Council, Series 2, No. 7 (Winter 2002): Integrating Human Rights and Peace Work http://www.carnegiecouncil.org/resources/publications/dialogue/2_07/index.html

SESSION 4. Lessons Learned from ADR in Violations of Indigenous Rights and Civil Rights

Learning Objectives - In this session, we will study some cases in which ADR has been used with various degrees of success for indigenous rights violations, as well as from cases based on racial, gender and religious discrimination. We will also touch upon ADR in addressing migrant and linguistic human rights.

Required Readings: David Turner et al., Challenges for Human Rights Advocacy and Conflict Resolution: The Case of Racism and Racial Conflict

http://www.aforts.com/colloques_ouvrages/colloques/actes/interventions/turner_david.doc

Tracey Raymond. 2006. Alternative Dispute Resolution in the Human Rights and Anti-Discrimination Law Context: Reflections on Theory, Practice and Skills

http://www.hreoc.gov.au/complaints_information/publications/ADR_2006.html

Optional Readings and Resources:

Tracey Raymond and Sofie Georgalis. 2003. "Dispute Resolution in the Changing Shadow of the Law: A Study of Parties' Views on the Conciliation Process in Federal Anti-Discrimination Law." *ADR Bulletin* 6(2).

http://www.hreoc.gov.au/complaints_information/publications/shadow_paper.html

Iyengar, S. (2007). The interface between formal and informal systems of justice: a study of Nari Adalats and caste Panchayats in Gujarat state. *Towards Inclusive Governance. Promoting the Participation of Disadvantaged Groups in Asia-Pacific*. Bangkok, UNDP Regional Centre in Bangkok.

Gadlin, H. (1991). "Careful Maneuvers: Mediating Sexual Harassment." *Negotiation Journal* April.

Buckley, M. (2002). Towards Transformative Human Rights Practices: A Reconsideration of the Role of Canadian Legal Institutions in Achieving Social Justice. *The Faculty of Graduate Studies / Faculty of Law*, The University of British Columbia.

SESSION 5. ADR in Business-Related Human Rights Violations

Learning Objectives - In this session, we will study the opportunities and challenges with using ADR in business-related human rights violations. We will explore several cases from different countries and learn how ADR tools could be successfully applied to human rights violations such as sexual harassments, child labor, community relocation and compensation, and employment discrimination.

Required Readings: Caroline Rees. 2010. Mediation in Business-Related Human Rights Disputes: Objections, Opportunities and Challenges, Harvard University Kennedy School Working Paper No. 56

http://www.hks.harvard.edu/m-rcbg/CSRI/publications/workingpaper_56_rees.pdf

Caroline Rees. 2010. Relax the Grip: A role for mediation in business and human rights disputes, Institute for Human Rights and Business

http://www.institutehrb.org/blogs/board/relax_the_grip_a_role_for_mediation_in_business_and_human_rights_disputes.html

Optional Readings and Resources:

http://baseswiki.org/en/Main_Page

http://www.business-humanrights.org/Categories/Issues/Security/Conflictpreventionresolution?sort_on=publication&batch_size=10&batch_start=20

Caroline Rees and David Vermijs. 2008. Mapping Grievance Mechanisms in the Business and Human Rights Arena. Corporate Social Responsibility Initiative, John F. Kennedy School of Government, Harvard University
<http://198.170.85.29/Rees-Vermijs-Mapping-grievance-mechanisms-Jan-2008.pdf>

Perry, M. (1998). "A Comment on ADR and Human-Rights Adjudication." Dispute Resolution Journal

Phillips, P. "Corporate Social Responsibility and Non-Judicial Access to Remedy Human Rights Violations: Is it Time for the Dog that Didn't Bark?"

Bingham, L. B., Cynthia J. Hallberlin, Denise A. Walker, and Won-Tae Chung (Winter 2009). "Dispute System Design and Justice in Employment Dispute Resolution: Mediation at the Workplace." Harvard Negotiation Law Review 14(1)

OECD Mediation Mechanisms.
http://www.fidh.org/IMG/pdf/section_III_mediation.pdf

Human Rights, Alternative Dispute Resolution, and the OECD Guidelines for Multinational Enterprises. (2007).
<http://www.oecd.org/dataoecd/42/11/38297552.pdf>

SESSION 6. Online Dispute Resolution – A Potential New Way for Addressing Human Rights Violations?

Learning Objectives - In this session, I will introduce the basic concepts of online dispute resolution and we will question the use of ODR in addressing human rights violations. Are there any basic theoretical blocks to using ODR in at least some types of human rights violations? How could we integrate ODR in addressing human rights violations?

Required Readings: Melissa Tyler and Susan Raines. 2006. "The Human Face of On-line Dispute Resolution." Conflict Resolution Quarterly 23(3): 333-342.

Joseph Goodman. 2003. The PROS and CONS of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites, Duke Law & Technology Review 4
<http://www.law.duke.edu/journals/dltr/articles/pdf/2003DLTR0004.pdf>

Optional Readings and Resources:

Raines, S. (2006). "Mediating in Your Pajamas: The Benefits and Challenges for ODR Practitioners." Conflict Resolution Quarterly 23(3): 359-369.

Hattotuwa, S. (2006). "Transforming Landscapes: Forging New ODR Systems with a Human Face " Conflict Resolution Quarterly **23**(3): 371-382.

Syme, D. (2006). "Keeping Pace: On-line Technology and ADR Services." Conflict Resolution Quarterly **23**(3): 343-357.

Poblet, Marta and Pompeu Casanovas. (2007). "Emotions in ODR." International Review of Law Computers & Technology **21**(2): 145-155.

ABOUT THE INSTRUCTOR:

Alexandru Balas is the Director of the Clark Center for International Education at State University of New York - Cortland. He is also an Assistant Professor and the Chair of the International Studies Program at SUNY-Cortland. He received his PhD in Political Science from the University of Illinois, Urbana-Champaign (2011), his MA in Conflict Analysis and Resolution from Sabanci University (2006), and his BA in Political Science from University of Bucharest (2004). In 2002-2003 he benefited from an Open Society Institute scholarship to study in the United States. His research is on issues of conflict resolution and peace studies. He published two books, "Muslims in Europe. The European Union Solving Social Conflicts" (Iasi: Editura Lumen, 2008), and Peace Operations (Oxford: Polity Press, 2014), and also several journal articles (Peace & Change, and the Journal of International Peacekeeping). Previously, he was a faculty member teaching courses on conflict resolution, international relations, and political science at Loyola University Chicago, the University of Vermont, the University of Illinois, Sabanci University, and a visiting faculty at the University for Peace. In addition to his academic career, he was a United Nations Youth Spokesperson for the Millennium Development Goals (2006-2008) and a Youth Delegate to the United Nations' 61st General Assembly (2006-2007).