



University Human Rights Education in Myanmar

A collaboration between Columbia University and the universities of Myanmar with the support of Open Society Foundations

Human Rights Learning Activities

March 2018

Introduction & User Guide

The following activities were designed primarily for use by law faculty in Myanmar as part of the [University Human Rights Education in Myanmar Project](#) run by the Institute for the Study of Human Rights at Columbia University with the support of Open Society Foundations. Specifically, the intended users are educators who are teaching International Human Rights Law to 3rd-year LLB students in Myanmar. However, our hope is that these activities will also be of use to educators in other contexts. These activities are designed with the expectation that each educator will modify them to suit the needs of their learners.

Unless otherwise specified, these activities were developed by Kristina Eberbach and Ben Fleming. Editing support was provided by Michelle Chouinard. They may be used and modified with proper attribution.¹

Each activity description indicates the goals, materials/resources required, estimated time, and instructions/steps. Where appropriate, lecture notes and worksheets are also included. Text in blue indicates a suggested narrative for instructors to use. These narratives may include activity instructions, questions to facilitate discussion, or suggested responses to questions posed by students. Please note that we use the terms facilitator/instructor and student/learner interchangeably.

Inquiries/comments pertaining to these activities and the project overall may be directed to humanrightsed@columbia.edu.

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Developing a Classroom Agreement

Goals of this exercise

- Engage student interest in human rights
- Establish trust within the classroom environment
- Encourage active, participatory learning
- Develop a group agreement that will govern interactions in the classroom that is based on human rights principles (promote education in and through human rights).

Explanation of exercise

Through this exercise, students will identify a set of rules that will govern interactions in the classroom and help promote rights within the educational environment. The process of developing this group agreement should model human rights principles (non-discrimination, equality, active participation, empowerment, transparency, accountability). For this reason, it is important that students are involved in developing the agreement and that you do not simply give them a list of guidelines. Their involvement helps empower them as active participants in the class and will ensure greater buy-in to whatever the final agreement says. If in the future a student does not respect the group agreement, you can refer back to it as a means of ensuring that students treat others with respect.

Resources/Materials

Large piece of paper & marker. Alternatively, you can type out and print the group agreement.

Time: 15-20 minutes

Instructions/Steps

Step 1: Introduce the exercise to students.

In order to ensure that human rights are respected in this classroom and in order to help ensure everyone is able to learn effectively, we are going to develop a classroom agreement that will govern interactions within the classroom. We can also use this agreement to hold each other accountable to human rights norms.

Step 2: Ask students to develop the group agreement. Make sure someone is typing or writing the agreement down.

Q1: *What are some suggestions that you have?*

Note: If students don't have suggestions, you may want to start the conversation by sharing some of your own. Some agreements that you can suggest to your students include:

- We will respect others' opinions and constructively communicate opinions and emotions. We don't have to agree with everyone, but we should treat them with respect.
- Avoid stereotypes and challenge assumptions.
- We will respect diversity. We will not discriminate against anyone based on their gender, religion, ethnicity, sexual orientation, etc. Diversity in the classroom contributes to a stronger learning environment.

- We will actively participate in class. Everyone should have the opportunity to participate in class. There is not always a right or correct answer, and contributions of all sorts can help us better understand human rights issues. A good question can advance the discussion and help everyone learn.
- We will challenge assumptions and avoid stereotypes and generalizations.
- We will be considerate and assume the best of our peers. Human rights discussions can be sensitive, and people will have different levels of expertise and/or personal experience with certain topics. If we treat questions or statements made in class as thought explorations rather than as definitive positions, we can encourage mutual learning and constructive discussions even if there are differing opinions.
- We will remain open minded and be willing to reconsider our positions. Opinions often change based on additional information, reflection, or consideration.
- Additional questions:

Q2: *What additional group agreements might you add to this list? Would you modify or remove any that we have proposed?*

Step 3: Post the group agreement in the classroom where everyone can see it.

What Are Human Rights?: Brainstorming Exercise

Goals of this exercise

- Foster interest in human rights
- Promote active discussion and participation in the learning process
- Articulate and reflect upon different understandings of what human rights are
- Promote critical thinking about human rights
- Gauge the knowledge about human rights that learners already have

Explanation of exercise

In this exercise, you will ask students to reflect upon what they think human rights are. Below are some questions you can pose to students to start the conversation about what human rights are. Some potential responses you may receive from students are also below. We have also included follow-up questions that you may want to pose in response to their answers.

Time: 15-20 minutes

Instructions/Steps

Step 1: Explain to students that this is a brainstorming session and there are no right or wrong responses. Rather, the purpose of this exercise is to introduce them to some of the concepts and big questions that will be addressed throughout the course. This warm-up exercise may be followed by an introductory presentation on human rights or you can incorporate some of the content into this exercise.

Step 2: Ask students: *What do you think of when you think of human rights? What does it mean to say someone has rights?*

- Students may list “survival rights” such as food, shelter, water, health care, etc.
 - **Follow up Questions:**
 - *Are rights more than what we need to survive?*
 - *Are survival rights sufficient? If not, what other rights do we need/have?*
- Students may list human rights principles, such as equality, non-discrimination, dignity.
 - **Follow up Questions:**
 - **Q:** *Why are these important?*
 - **Q:** *What is dignity? If they don't have a response, you can ask: One definition of human dignity are those things about a human that are deserving of respect. Do you agree with this definition? If so, what are those things about a human that are deserving of respect? How do these characteristics relate to rights?*
 - *For example, if human beings have the ability to communicate, then we also need the right to freedom of expression to realize this ability. Human beings are also social animals and we need the right to family and association. We also have the capacity for rational thought, but need education to develop this capacity.*

- Students may list certain specific rights, such as right to freedom of religion or freedom of movement.
 - **Follow up Questions:**
 - *Q: Yes, these are examples of rights, but what is a right, in and of itself? They are easy to list but hard to define.*
 - *Q: When we refer to human rights, are we referring to something more than just a list of rights? How would you try to define what a human right is?*

- Students may also list some things that are considered needs or wants. Follow-up questions could include:
 - **Follow up Questions:**
 - *Q: Are all “needs” rights? Are all “wants” rights?*
 - *Q: What makes something a right?*

Step 3: Explain that:

There is no all-encompassing, internationally accepted definition of human rights. (Although certain rights are internationally accepted and enshrined in international treaties).

- Human rights are individual and collective claims upon society, guaranteed by government.
- Human rights are the freedoms and the goods or services required to live with dignity.
- Human rights represent a collective, global understanding of the minimum treatment that we all deserve by virtue of being human. (Although the existence of specific rights are also contested by certain individuals and governments.)
- Human rights can also be considered an analytical framework, a tool for action, and a set of standards for how governments should behave.

Is it a Human Right?: Discussion Exercise

Goals of this exercise

- Foster interest in human rights
- Promote active discussion and participation in the learning process
- Articulate and reflect upon different understandings of what human rights are, including the difference between rights, needs and wants
- Promote critical thinking about human rights
- Gauge the knowledge about human rights that learners already have

Explanation of exercise

In this exercise, you will list some examples of different rights, needs, and wants on the board. You will then ask students to discuss which of these items are rights, which ones are not, and why. You can facilitate this discussion with the entire class or you can have students break into small groups for discussion and then report back to the rest of the class.

Resources/Materials

Blackboard/Whiteboard

Time: 15-20 minutes

Instructions/Steps

Step 1: Write the following things on the blackboard.

- Adequate housing
- Time off from work
- Car
- Water
- Love
- Job
- Money
- Family
- Safety
- Peace
- Internet
- Happiness
- *Note: You can also add other rights, needs, or wants that you think you can list on the blackboard that might prompt discussion?: _____*

Step 2: Ask your students: **Q:** *Which of these things are human rights? Why or why not?*

Step 3: After a student identifies something as a right or as not a right, ask them why they provided the answer they did. **Q:** *Why do you think this is a right? Or Why do you think that this is not a right?*

Some students may say something is a right because a law exists saying that it is a right. Others may say that a right does not exist because it is not realized in practice or because it does not exist in law. Other things may not be rights themselves, but may be aspects of a right. Try to ask follow-up questions to get them to articulate what criteria they are applying when determining whether or not something is a right.

For example if someone says that the right to internet is not a right because a law does not exist, you may ask them - *Q: Does something need to be enshrined in law in order for it to be a human right? Why or why not?*

If someone says that something is a right, follow-up questions include: *Q: In what sense is it a right? What obligations does this right entail? How is it realized?*

For example, the right to a family is the opportunity for consenting individuals to start a family, the right to live together, etc. But, this does not mean that the government has to provide a woman a husband, or that the government can force people to have children so that they have a family? Can a government restrict the number of children a family can have?

The International Bill of Rights (UDHR/ICCPR/ICESCR) and Your Constitution

Goals of this exercise

- Develop greater familiarity with the rights found in the UDHR/ICCPR/ICESCR
- Reflect upon and discuss the differences in the ways rights are articulated in the UDHR and the constitution
- Consider the ramifications and reasons for choosing different articulations/expressions/definitions of rights

Explanation of exercise

In this exercise, students will explore and compare the expression of rights as they are found within the International Bill of Rights (UDHR, ICCPR, ICESCR) and the Myanmar Constitution and will then discuss the implications created by the differences they have noted.

Resources/Materials

[The Universal Declaration of Human Rights](#)

[The International Convention on Civil and Political Rights](#)

[The International Convention on Economic, Social, and Cultural Rights](#)

Note: You may also choose to have students only examine one or two of these documents.

[The Myanmar Constitution](#)

Time: 30-45 minutes

Instructions/Steps

Step 1: Break students into small groups (3-6 students per group depending on class size). Inform students that they will have approximately 20 minutes for discussion. *Note: Time allocated will depend on how many documents they are comparing and whether you provide them with example articles for Question 1 below.*

Step 2: Explain to students that they will discuss three questions in their small groups and will then be asked to share their answers with the rest of the class.

Step 3: Write the following questions on the blackboard or distribute a worksheet with the questions.

Q1: *Identify 1-2 rights articulated in the Constitution that are also addressed in some way in the UDHR. What are the similarities and differences between how these rights are articulated?*

Note: Depending on how much time you want to allocate to this exercise and how thoroughly you want students to compare the documents, you can give them some specific articles to compare and contrast or you can ask them to identify these articles on their own. Some examples of rights that students can compare and contrast include (MC = Myanmar Constitution):

- MC 19/UDHR 11/ICCPR 14

- MC 410, 414, 420 and ICCPR Art. 4
- MC 348/UDHR 2, 7/ICCPR 2, 26
- MC 21/UDHR 7,8,9/ICCPR 10, 14
- MC 345/ICCPR 24(3)
- MC 353/ICCPR 2, 4(1)
- Additional articles of potential interest in MC include: 34, 44, 347, 352, 353, 359, 365, 381

Q2: *Are there any rights that are articulated in the UDHR/ICCPR/ICESCR that are missing from the Constitution?*

Q3: *Are there any rights in the Constitution that are missing from the UDHR/ICCPR/ICESCR ?*

Step 4: Group Discussion.

Addressing each question in turn, ask groups to volunteer to share the answers they developed in their small groups.

Follow-up questions for **Q1:**

- *Does the difference in how rights are articulated in the two texts affect the realization of those rights in practice? If yes, in what ways? If no, why not?*
- *What reasons might underlie the decision to draft the rights as they appear in the different texts? How might vagueness or specificity of language influence one's ability to exercise a given right?*
- *Are there specific limitations placed on a right in one text as compared to another? Are these limitations necessary under certain situations? Are those certain situations specified in the the text?*

Follow-up questions for **Q2:** *Do you think these rights need to be enshrined in the Constitution? Why or why not? If so, should the language need to be modified in any way?*

Note: Some examples of rights that are missing from the Constitution include:

- Prohibition of torture, inhuman treatment, cruel punishment
- Right to legal Advice/counsel for defendants
- Right to present or challenge evidence
- Right to presumption of innocence
- Protection from double Jeopardy
- Rights of the disabled
- Limitations clauses like those found in the ICCPR (Art 21 - No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.)

Follow-up questions for **Q3:** *Are there any rights in the Constitution that you think should be enshrined in an international human rights treaty? Why or why not? If yes, in what way? Would it need to be modified to be universally and internationally applicable? Should rights in a Constitution be more specific than those articulated in international instruments? Why or why not? Many of these rights are found in domestic legislation. Does it matter whether a right is articulated in a Constitution or in some other form of legislation? Why or why not*

Positive and Negative Obligations

Goals of this exercise

- Identify and better understand the positive and negative actions the government should take to ensure human rights
- Identify and better understand the obligations of the government and individuals related to rights
- Examine the full contours and meanings of rights and their obligations

Explanation of exercise

In this activity, students identify the positive and negative obligations required to realize specific human rights. They will work individually or in small groups to identify these obligations and will compare their answers to those of their classmates.

Time: 30 minutes

Instructions/Steps

Step 1: Remind students of the distinction between positive and negative obligations. (You may want to ask the class if anyone wants to volunteer to explain the distinction).

Step 2: Explain to students that they are going to identify some examples of specific obligations and actions the government and individuals can take to ensure the realization of rights. For each human right given, they will answer the following five questions:

- 1) What are the positive obligations? What does the government have to do?
- 2) What are the negative obligations? What must the government refrain from doing?
- 3) What are some negative actions we as individuals can take to help ensure this right is realized?
- 4) What are some negative actions we as individuals can take to help ensure this right is realized?
- 5) Are there any actions or obligations that are difficult to categorize as either negative or positive?

Step 3: Provide an example.

Example obligations/Actions: The right to vote in elections (part of the right to participate in public affairs) (UDHR Art. 21)(Art 25 ICCPR)

Government Actions - Negative

- Do not unlawfully discriminate (for example, based on race or education level) to prevent persons from voting
- Do not interfere with the ability to travel to voting stations

- Do not charge money for the privilege to vote
- Do not unlawfully restrict speech or assembly
- Allow a free press to fully investigate, and report on candidates (could also maybe be considered a positive obligation if it government creates laws and policies in order to ensure press freedom)

Government Actions - Positive

- Provide ballots, ballot boxes, polling stations, election monitors, etc...
- Create rules/laws about campaigning to ensure equal access to information
- Police the polling stations to prevent violence and allow voting for all eligible individuals
- Translate materials into local languages and dialects
- Allow for a public holiday for important elections/create laws requiring private business to allow employees to miss a reasonable amount of work time in order to vote

Individual Actions - Negative

- Do not misinform individuals about where they can vote
- Do not require your spouse/family to vote for the candidate you prefer
- Respecting the outcome of fair and democratic elections (also positive?)
 - Negative - refrain from contesting or intervening with power
 - Positive - peaceful transfer of power and government offices

Individual Actions - Positive

- Help educate others about issues on the ballot
- Participate in the process by voting or volunteering for the campaign of your preferred candidate
- Protesting unfair and undemocratic elections

Step 4: Provide the list of rights and ask students to answer the five questions above for each right. You can write these on the board, read them out loud or distribute a worksheet.

- Right to education (UDHR Article 26)
- Right to freedom of peaceful assembly and association (UDHR Article 20)
- Right to freedom of opinion and expression (UDHR Article 19)
- Right to nationality (UDHR Article 15)
- Freedom from torture or cruel, inhuman or degrading treatment or punishment (UDHR Article 5)
- Right to work (UDHR Article 23)

Step 5: Debrief the activity. Ask students if they would like to share some of the answers they identified with the rest of the class.

Create Your Country's Constitution

Goals of this exercise

- Consider the interrelated nature of rights
- Examine and consider the different priorities sometimes given to specific rights

Explanation of exercise

In this exercise, students create a purposefully limited constitution. This process requires students to consider all the rights found in the International Bill of Rights, prioritize these rights, and then justify the inclusions/omissions in the constitutions they develop.

Time: 15-20 minutes

Resources/Materials

Piece of Paper

Instructions/Steps

Step 1: Divide students into groups of 3-6 students.

Step 2: Assign one number to each group, 1 - 5. The number the group is assigned indicates the number of articles/rights that group is allowed to include in their constitution.

Note: The same number can be assigned to more than one group depending on the size of the class.

Step 3: Explain to students that they are going to be developing the constitution of their own country. The number of articles/rights to be included is based on the number assigned to each group. They will have 5-10 minutes. They will need to answer the following questions:

- (1) What is the name of your country?
- (2) How many articles/rights were you permitted?
- (3) Which rights will you include in the constitution? How did you articulate/draft each article?
- (4) Why did you decide to prioritize the rights that you did?
- (5) Which rights were the most controversial or caused the most disagreement (if any)?

Step 4: Ask students to volunteer to present their answers to the four questions above.

Note: This exercise is modified based on the following. Human Rights Country, developed by Sandra Sirota. 2013.

Categories, Characteristics and Principles of Human Rights: Human Rights Scavenger Hunt

Goals of this exercise

- Promote greater familiarity with the articles of the UDHR
- Identify positive and negative aspects of particular rights
- Identify the relationship between rights and understand how they are interdependent
- Identify ways in which rights may come into conflict with one another
- Understand and challenge different characteristics and categories often assigned to different rights
- Develop a positive learning environment by promoting greater familiarity with other learners

Explanation of exercise

In this interactive activity, students are assigned a right and through conversation with their peers, explore and challenge different characteristics and categories often assigned to different rights.

Resources/Materials

[The Universal Declaration of Human Rights](#) - Small pieces of paper with the number of an article from the UDHR (Articles 3 through 27) written down on it. (You can also write the entire article on the piece of paper.)

[Human Rights Scavenger Hunt Worksheet](#)

Note: You can modify this exercise to also include articles from the ICCPR, ICESCR or other human rights treaties. We recommend that you concentrate on substantive rights within the text (as compared to the procedural rights or reporting procedures that are usually at the end of treaties).

Time: 30-45 minutes

Instructions/Steps

Step 1: Distribute a piece of paper with an article from the UDHR written on it to each student. Depending on the number of students, you can give a different right to each student or you can give the same right to more than one student.

Step 2: Explain to students that each one of them has been given a particular right and that other students have different rights. Explain that the goal of the exercise is to fill out the worksheet by finding someone with a right that meets the criteria listed in the worksheet. They should try not to use the same right for more than one answer.

Optional: If time allows and you are using this activity at the beginning of a course, you may want to ask students to identify the name of the person with the right they have identified when filling out the worksheet.

Step 3: Provide an example answer.

Let's assume that the right assigned to you is UDHR Article 26 - the right to education - and that you are completing Number 5 on the worksheet, which states: "Find a right that you need in order to effectively

realize your right.” In other words, what other rights do you need to get an education? One possible response may be UDHR Article 13 - the right to freedom of movement. Without freedom of movement, it would be difficult to go to school and realize your right to education.

Step 4: Give students 10-15 minute to complete the worksheet.

Step 5: Debrief and Discussion. Ask students the following questions. (You may also select from the list below depending on the time available).

Q1: *What are some actions that the government must take to ensure the right you were assigned?*

Q2: *What are some actions that the government must refrain from taking in order for your right or another right that you found to be realized? What is the right? What are the actions?*

Follow-up explanation note to students: Explain that rights are often classified as being either positive rights (requiring action to be realized) or negative rights (ones that require the government to refrain from action or infringement). However, in practice, most rights require both positive action on the part of the government as well as require the government to refrain from action.

Q3: *What are some examples of a civil or political right? Could any of these also be considered an economic, social or cultural right?*

Note to instructor: some examples could include right to association, right to freedom of movement, right to a family.

Why do you think these divisions or categories exist?

Note: the steps that governments must take in order to ensure civil and political rights may differ from what they must do in order to fulfill social, economic or cultural rights. For example, some rights may require more positive actions or additional resources.

Q3: *What obligations do individuals have with respect to the right you were assigned?*

Q4: *Who would like to share an example of a right that is difficult to realize effectively if the right you were assigned is violated? How do these rights relate to one another?*

Q5: Part 1 - *What right may conflict with or limit your ability to realize the right you were assigned? How does this right conflict with or limit the right you were assigned?*

Part 2 - *How should the government respond to this tension? Which right should be prioritized? Under what circumstances? (You may also want to ask other students whether they agree or disagree.)*

Other questions that you may want to ask students?:

Human Rights Scavenger Hunt Worksheet

Instructions

Each of you has been given one right from the UDHR/ICCPR/ICESCR or another human rights treaty. Your fellow students have a different right. Fill out this worksheet by finding someone with a right that meets the criteria listed below. Try not to use the same right for more than one answer. For example, if you find someone with UDHR Article 26 (right to education), you may list that as a right requiring positive action by the government (question 1 below) or as an economic, social or cultural right (question 4 below).

- 1. Find a right that requires positive action by the government in order for that right to be realized. (Often referred to as positive rights)**

UDHR/ICESCR/ICCPR (circle one) Article: _____

Name of the student with this article (optional): _____

- 2. Find a right that that requires the government to refrain from certain actions in order for that right to be realized. (Often referred to as negative rights)**

UDHR/ICESCR/ICCPR (circle one) Article: _____

Name of the student with this article (optional): _____

- 3. Find a right that is considered a civil or political right**

UDHR/ICESCR/ICCPR (circle one) Article: _____

Name of the student with this article (optional): _____

- 4. Find a right that is considered an economic, social or cultural right**

UDHR/ICESCR/ICCPR (circle one) Article: _____

Name of the student with this article (optional): _____

- 5. Find a right that you need to realize your right effectively.**

UDHR/ICESCR/ICCPR (circle one) Article: _____

Name of the student with this article (optional): _____

- 6. Find a right that is difficult to realize effectively if your right is violated.**

UDHR/ICESCR/ICCPR (circle one) Article: _____

Name of the student with this article (optional): _____

7. Find another right that may conflict with or limit your ability to realize your right.

UDHR/ICESCR/ICCPR (circle one) Article: _____

Name of the student with this article (optional): _____

8. Find a right that is more important to you than your right.

UDHR/ICESCR/ICCPR (circle one) Article: _____

Name of the student with this article (optional): _____

Matching Human Rights Concepts to Definitions and Examples: Game

Goals of this exercise

- Promote greater familiarity with human rights concepts
- Assess learners' understanding of human rights concepts

Explanation of exercise

In this activity, students match key concepts to definitions. The following concepts and definitions can be modified based on the topic being taught. This activity can also be revised so that instead of matching a concept to a definition, students match a concept to an example of a violation or to an article in a particular human rights treaty.

Time: 10-15 Minutes

Resources/Materials

[Matching Human Rights Concepts and Definitions Worksheet](#)

Note: Please feel free to create your own cards!

Instructions/Steps

Step 1: Cut up the concepts and definitions so each is on a separate piece of paper and then shuffle the pile of cards. You will need one set per individual or group.

Step 2: Distribute the concept and definition cards (shuffled) to each individual or group of students and ask students to match the concept to the definition. Give students 5-10 minutes to match the cards.

Note: The amount of time needed will depend on the number of cards distributed and how familiar students are with the concepts.

Optional: You can make it a race to see who can accurately match all concepts first or you can see who can get the greatest number of accurate matches within an allocated period of time.

Step 3: After students have had time to match the concepts and definitions, you can recap by reading each concept and asking for volunteers to share the corresponding definition they identified.

Matching Human Rights Concepts and Definitions Worksheet

Instructions: Cut out the cards, shuffle them, and distribute one set to each individual/group. Each individual/group will then try to match the terms to the correct definitions/examples.

Direct Discrimination	Different treatment based on specific trait, categorization, or grouping. (For example, not permitting women to hold combat positions)
Indirect Discrimination	Practice or policy that formally treats everyone the same but has a disproportionate effect on a certain group of persons. (For example, termination from a job for any absence over 1 month in length)
Substantive Equality	Treating everyone the same does not always create equality. The realization of rights must be the same for everyone. For example, ensuring that both men and women have equal access to hospitals does not mean their health outcomes will be the same if the hospital does not provide obstetric care to women.
Positive obligations	Governments have the duty to actively ensure rights. This means that at times they must, provide, protect, prevent and remedy rights violations. Non-interference is not sufficient to ensure the realization of rights.

<p>Presumption of innocence</p>	<p>The right to be treated without prejudice or bias until found responsible for a crime or civil wrong. (A person accused of a crime cannot be referred to as a criminal, but rather as a suspect, or defendant)</p>
<p>Right to a remedy</p>	<p>It is not enough to acknowledge a right - in order for a right to be realized, breaches of rights must be addressed. This can come in many forms - money, imprisonment, a hearing, an apology, a law change, a memorial, etc...</p>
<p>Privacy</p>	<p>The right to be left alone - to have one's personal information secure from scrutiny.</p>
<p>Minimum core obligations</p>	<p>In relation to economic, social and cultural rights, a government must ensure the bare minimum of all rights and must prioritize the needs of the most vulnerable among its population in urgent situations. Anti-utilitarian principle - A state cannot neglect dire needs in favor of the long term goals of the majority.</p>

<p>Reservations</p>	<p>These are permitted in most treaties so long as they do not frustrate the overall object and purpose of the treaty and are not overly broad or vague.</p>
<p>Limitation</p>	<p>A restriction of a right that is permitted at all times so long as it is done according to law, is necessary, and is done for a permitted/legitimate purpose.</p>
<p>Derogation</p>	<p>A complete suspension of a right that is only allowed during public emergencies. There are some rights that can never be suspended no matter the circumstances. Examples are non-discrimination; life; no torture, slavery, debt imprisonment, ex post facto laws; recognition, freedom of thought/conscience/religion, fair trial.</p>
<p>Access to information</p>	<p>This right relates to free expression. The government must operate on a presumption of transparency and disclosure of government behavior and police. Democracy cannot work if the voters are uninformed.</p>

<p>Best interest of the child</p>	<p>Decisions that affect a minor's life must be made with the ultimate goal of fostering and encouraging the child's happiness, security, mental health, and emotional development into young adulthood as a priority.</p>
<p>Progressive realization</p>	<p>It is impossible to immediately provide the highest attainable form of most economic, social, and cultural rights, and for this reason, states may work for the complete fulfillment of rights over time so long as they take steps to continually improve the conditions of its population.</p>
<p>Effective participation</p>	<p>A principle of inclusion and agency - persons affected by government decisions should have a considered voice throughout the development of policy that pertains to their interests. It is a principle of a rights-based approach to programming and policy development.</p>
<p>Torture and CIDT</p>	<p>Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.</p>

Arbitrary Detention	Custody, incarceration or internment without legal justification, protection, or due process.
Right to Life	This right is the basis upon which many object to the death penalty. The right to food and water are closely related to this right.
Right to Health	This right includes access to medical services, sanitation, adequate food, decent housing, healthy working conditions, a clean environment.
Right to Religion	Freedom of expression and the right to assemble are often needed in order to fully realize this right. (Article 18)

<p>Special measures</p>	<p>Examples include access ramps for the disabled or maternity leave protections. Also known as affirmative action.</p>
<p>Free speech</p>	<p>The state may impose reasonable restrictions on this right. For example, to prevent the incitement of violence.</p>

Taking the Human Rights Temperature of Your University

Goals of this exercise

- Identify human rights issues within the university environment, both inside and outside the classroom
- Explore ways in which human rights can be more effectively realized within the university

Explanation of exercise

In this activity, students evaluate or assess the human rights situation within their own educational environments. This activity will help them identify relevant human rights issues and identify actions that can be taken to promote human rights within their own learning community.

Time: 30 minutes

Resources/Materials

[Taking the Human Rights Temperature of Your University Worksheet](#)

Instructions/Steps

Step 1: Explain to students that everyone has the right to education. We have the right to be educated not only about our rights, but within an environment that respects and promotes human rights and in such a way that empowers us to take action to defend and demand rights. (Right to education *about* human rights, *through/in* human rights, and *for* human rights). You may also want to discuss when certain actions may be considered discrimination and when it may be permissible to treat certain individuals different. (See the *Note* on the Taking the Human Rights Temperature Worksheet).

Step 2: Explain that they will be filling out the [Taking the Human Rights Temperature of Your University Worksheet](#). The purpose of the exercise is to help them examine human rights within their own educational environment and to develop actions that can be taken to promote human rights. The questions on this worksheet are based on articles of the UDHR. After answering each question by entering a rating of 0-3, students should tally their total points. (More detailed instructions are on the worksheet).

Step 3: Ask students to complete the worksheet. Explain that they will have 10-15 minutes to do so.

Step 4: Ask students to divide into small groups of 3-6 people in order to discuss their responses in small groups. In addition to discussing their responses, they should discuss potential actions or responses that can be taken to help address some of the human rights challenges they identify. Suggested discussion questions that can be edited as needed are included in the worksheet.

Step 5: Ask a representative from each group (or only a few groups depending on time) to share the human rights issue they identified and the response(s) they discussed.

Optional: Additional debriefing/discussion questions for each group:

Q: *Were there common issues or problems that most in your group identified? What were they?*

Q: *Were there certain issues raised by some of your classmates that you were unaware of or were surprising to you?*

Taking the Human Rights Temperature of Your University Worksheet²

Read each statement and assess how accurately it describes your university community in the blank next to it. Keep in mind all members of your university including students, teachers, administrators, staff.

Note: When discrimination is mentioned in the questionnaire below, it refers to a wide range of conditions: race, ethnicity/culture, sex, gender identity, physical/intellectual capacities, friendship associations, age, culture, disability, social class/financial status, physical appearance, sexual orientation, lifestyle choices, nationality, and living space. Discrimination must be unlawful, or impermissible. Sometimes it is permissible to treat certain groups differently. For example, it is permissible and advisable if the purpose is to ensure equal outcomes in terms of the realization of human rights. For example, affirmative action or special measures. It can also be permissible to treat certain students differently if it is based on merit and individuals have equal access to such opportunities. For example, if a university awards a fellowship to the individuals with the highest marks or who wrote the best essay/paper.

Select the number that corresponds to your assessment for each statement.

0 - no/never

1 - rarely

2 - often

3 - yes/always

N/A - not applicable

² *Note:* This exercise is adapted from the "Taking the Human Rights Temperature of Your School" D. Shiman & K. Rudelius-Palmer, *Economic and Social Justice: A Human Rights Perspective* (Minneapolis: Human Rights Resource Center, University of Minnesota, 1999), <http://hrusa.org/hrmaterials/temperature/tempprint.htm>

Question	Rating Scale
1. My university is a place where students and faculty are safe and secure. (Art. 3 & 5)	_____
2. All students receive equal information and encouragement about academic and/or career opportunities. (Art. 2)	_____
3. Members of the university community are not discriminated against because of their lifestyle choices (such as association with certain people or manner of dress), social status, or background. (Art. 2 & 16)	_____
4. My university provides non-discriminatory access to resources, activities, and scheduling accommodations for all individuals. (Art. 2 & 7)	_____
5. Members of my university community will oppose discriminatory or demeaning actions, materials, or slurs on campus. (Art. 2-3, 7, 28-29)	_____
6. When someone demeans or violates the rights of another person, the violator is helped to learn how to change his/her behavior. (Art. 26)	_____
7. Members of my university community care about my full human as well as academic development and try to help me when I am in need. (Art. 3, 22, 26 & 29)	_____
8. When conflicts or tensions arise, we try to resolve them through non- violent, democratic, and collaborative ways. (Art. 3, 28)	_____
9. Institutional policies and procedures are implemented when complaints of harassment or discrimination are submitted. (Art. 3 & 7)	_____
10. In matters related to discipline (including suspension and expulsion), all persons are assured of fair, impartial treatment in the determination of guilt and assignment of punishment. (Art. 6 - 10)	_____
11. Someone accused of wrongdoing is presumed innocent until proven guilty. (Art. 11)	_____
12. No one in our university is subjected to degrading treatment or punishment. (Art. 5)	_____
13. My personal space and possessions are respected. (Art. 12 & 17)	_____
14. My university community welcomes students, teachers, administrators, and staff from diverse backgrounds and cultures. (Art. 2, 6, 13-15)	_____
15. I have the liberty to express my beliefs and ideas (political, religious, cultural, or other) without fear of discrimination. (Art. 19)	_____
16. Members of my university can produce and disseminate publications without fear of censorship or punishment. (Art. 19)	_____
17. Diverse voices and perspectives (e.g. gender, race/ethnicity, ideological) are represented in courses, textbooks, assemblies, libraries, and classroom instruction. (Art. 2, 19, & 27)	_____
18. I have the opportunity to express my culture through music, art, and literary form. (Art. 19, 27 & 28)	_____

19. Members of my university have the opportunity to participate (individually and through associations) in democratic decision-making processes to develop university policies and rules. (Art. 20, 21, & 23)	_____
20. Members of my university have the right to form associations within the university to advocate for their rights or the rights of others. (Art. 19, 20, & 23)	_____
21. Members of my university encourage each other to learn about societal and global problems related to rights, justice, ecology, poverty, and peace. (Preamble & Art. 26 & 29)	_____
22. Members of my university encourage each other to organize and take action to address societal and global problems related to justice, ecology, poverty, and peace. (Preamble & Art. 20 & 29)	_____
23. Members of my university community are able to take adequate rest/recess time during the university day and work reasonable hours under fair work conditions. (Art. 23 & 24)	_____
24. Employees in my university are paid enough to have a standard of living adequate for the health and well-being (including housing, food, necessary social services and security from unemployment, sickness and old age) of themselves and their families. (Art. 22 & 25)	_____
25. I and others take responsibility in my university to ensure other individuals do not discriminate and that they behave in ways that promote the safety and well being of my university community. (Art. 1 & 29)	_____
Total Points	_____

Discussion Questions

In which areas does your university appear to be adhering to or promoting human rights principles?

In which areas do there seem to be human rights problems? Which of these are of particular concern to you?

How do you explain the existence of the problematic conditions you identified?

- Do they have race/ethnicity, class, gender, disability, age, or sexual orientation dimensions?
- Are the issues related to participation in decision-making (who is included and who isn't)?
- Other explanations to consider?

Who benefits and who loses/suffers as a result of the existing human rights violations?

Have you or others (students, instructors, administrators, others) contributed in any way to the creation and perpetuation of the existing educational climate? For example, by acting in certain ways (standing up for the rights of others) or by not acting in certain ways (not reporting incidents of abuse).

What needs to be done to improve the human rights climate in your university? What action(s) can you and your fellow students take to create an environment where human rights values are promoted and human rights behaviors practiced? From the issues and actions you discuss, please select one issue and 1-2 potential responses/actions to share with the rest of the class.

International Convention on Civil and Political Rights: Limitations and Derogations

Goals of this module

- Identify whether governmental conduct constitutes a limitation or derogation
- Develop a greater understanding of limitations and derogations based on the ICCPR
- Develop a greater ability to assess whether a particular limitation or derogation is lawful according to the rules outlined in the convention

Explanation of module

This module will provide two lectures (one on limitations and one on derogations) and two subsequent exercises that ask students to assess whether A) a governmental action is a limitation or a derogation and B) whether the action is lawful.

Time: 3 hours

Resources/Materials

[Introduction to Limitations Lecture Notes](#)
[Limitations Exercise Worksheet](#)
[Introduction to Derogations Lecture Notes](#)
[Limitations/Derogations Exercise Worksheet](#)

Instructions/Steps

Step 1: Complete the lecture on limitations using the [Introduction to Limitations Lecture Notes](#).

Step 2: Complete the Limitations Exercise using the [Limitations Exercise Worksheet](#).

- Distribute the [Limitations Exercise Worksheet](#) to students. Explain that in this exercise, they will analyze various government responses to assess whether or not they are lawful based on the rules for limitations. You may ask students to divide into small groups for discussion or you can discuss these questions with the entire class.
- **Discussion Questions:** For each of the hypothetical government responses (A-D), ask students: *Is the response lawful? Why, or Why Not? What other information might you need to determine whether or not the response was lawful?*

Step 3: Complete the lecture on limitations and derogations using the [Introduction to Derogations Lecture Notes](#).

Step 4: Complete the Limitations/Derogations Exercise using the [Limitations/Derogations Exercise Worksheet](#).

- Distribute the [Limitations/Derogations Exercise Worksheet](#) to students. Explain that in this exercise, they will analyze various government responses. First, they will decide whether the response is a limitation or a derogation. Second, they examine the lawfulness of the action based upon the rules provided by the ICCPR and interpreted by the Human Rights Committee.

- Discussion Questions: For each of the hypothetical government responses (A-D), ask students: *Is the response lawful? Why, or Why Not? What other information might you need to determine whether or not the response was lawful?*

Introduction to Limitations Lecture Notes

How and when can a government limit or restrict rights within the covenant? Limitations of rights under the ICCPR are always permitted, but only if they meet a certain set of requirements that are outlined in the treaty.

To demonstrate the limitations regime established by the ICCPR we will look at Article 12, concerning the right to movement.

ICCPR Article 12

- 1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.*
- 2. Everyone shall be **free** to leave any country, including his own.*
- 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.*

The article describes the rights in sub-paragraphs 1 and 2, and then, in sub-paragraph 3, it outlines what the government must do in order to restrict or limit the rights found in the article. The default rule is that the right should not be limited, but sub-paragraph 3 of article 12, which is known as a 'limitations clause' contains a formulation that can be used to analyze most of the rights found within the Covenant.

The limitation clause found in Article 12(3) establishes four basic rules that must be met in order to restrict the right to movement.

1. The restriction must be provided by law.
2. The restriction must be necessary (in a democratic society)
3. The restriction must be for the purpose of protecting one of 4 permitted State interests
 - a. National Security
 - b. Public Order (ordre public)
 - c. Public Health or morals
 - d. Rights and freedoms of others
4. The restriction must be consistent with other rights in the covenant.

An easy example of a limitation to Article 12 would be the requirement of a passport to travel outside the country. Article 12(2) says that a person has the right to leave any country, but a State can limit that right by requiring them to obtain a passport. Does this restriction meet the test found in the limitation clause?

Is the requirement to travel with a passport provided by law?

Is it necessary?

Which of the permitted purposes does it protect?

Is the restriction consistent with other rights in the covenant?

In order to answer these questions, we must take a closer look at what these requirements really mean. The Human Rights Committee, the treaty body responsible for interpreting the ICCPR, has given guidance on the interpretation of these rules.

1. Provided by law:

a. This means that the restriction must be made according to the proper executive, legislative, or judicial process according to the constitutional process in that jurisdiction. For example, if the Hluttaw discusses and passes a law stating that passport photos must be in color, that restriction would be provided by law. However, if no such law existed, and a customs agent refused to allow a person to travel because their passport photo was black and white, that restriction would not be provided by law. A customs agent does not have the power to create such a restriction.

2. Is it necessary:

a. The restriction cannot simply benefit one of the permitted purposes, it cannot simply aid national security in some small way, it must be necessary to protect national security. Another way of interpreting this requirement is to ask whether the restriction is the 'least restrictive' option available that will achieve its purpose. A passport might be necessary to secure public safety or national security whereas a policy that only allows a person to leave the country once every 10 years would not be necessary for the same purpose.

3. Permitted Purpose:

a. The four permitted purposes can outweigh individual rights because they concern the greater good. A State can restrict the movement of a person with Zika in order to protect the health of the rest of their population.

4. Consistent with other rights:

a. The state can restrict the movement of a person with Zika in order to protect the health of the population, but it could not deny passports to Muslims because that would violate the right to non-discrimination found in Articles 2, 4, and 26 of the ICCPR.

Limitations Exercise Worksheet

Hypothetical Scenario

A bomb explodes in a small northern city in Country X. The bomb explodes in the town square and destroys a street that contains a court and a school.

The government does not know who exploded the bomb or why – but they suspect that it was a militia group that comes from Country Y to the North.

Government Responses

- A. The President of Country X, citing the public emergency provision of the Constitution, orders that for the next 4 days, only the police and government engineers may enter the town square, and that no citizen of country Y may cross the Northern border without authorization for a period of 7 days.
- B. The Mayor of the city declares that nobody who is from Country Y, or who has a family member from Country Y, may leave the city for any reason.
- C. The Army General of Country X orders his soldiers to stop any bus or train entering the town and to interrogate any person that looks like they are from country Y.
- D. The Parliament of Country X passes an emergency law that no foreigner may leave the country until the terrorists are captured.

Introduction to Derogations Lecture Notes

We have looked at the manner in which a government can limit or restrict rights, now we will examine another way that governments may lawfully avoid their obligations under the ICCPR. When done properly, states can restrict or limit rights found in the ICCPR. Similarly, under certain circumstances, states may also derogate from, or suspend the availability of certain rights.

What is the difference between a limitation and a derogation?

A limitation is a restriction. It is a partial constraint upon the right. (You need a permit to protest)

A derogation is a complete suspension or cessation of a right. (You may not protest)

The rules for suspending a right under the ICCPR are outlined in Article 4 of the ICCPR.

Article 4

1 . In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

In the same way that the Covenant creates rules for limiting a right, Article 4 creates rules for derogating from rights under the Covenant. Let's break the rules in Article 4 down. Article 4(1) states that a country may suspend a right when there exists:

1. A Public Emergency
2. That threatens the life of the nation
3. The public emergency is officially proclaimed
4. The suspension is required (necessary) due to the exigency of the situation
5. The suspension is consistent with other obligations in international law
6. The suspension does not discriminate based solely upon race, color, sex, language, religion, or social origin.

Thus derogations are highly restricted. But what do these requirements mean? Just like the regime for limitations, the Human Rights Committee of the ICCPR has given meaning to these requirements.

- a) A public emergency
 - i) Public emergencies include, but are not limited to armed conflicts, natural disasters, mass demonstrations that include violence, terrorist acts, and industrial accidents

- b) The PE must threaten the life of the nation
 - i) a threat to a system of government, to a particular regime, or a particular party is not enough. It must threaten the existence of the nation itself
- c) Official proclamation
 - i) Parties to the ICCPR must be able to monitor other States obedience to the Covenant, and therefore must be notified when a party intends to derogate. Proclamation should be made as soon as practicable
- d) The suspension must be required by the exigency of the situation
 - i) A suspension is not necessary if a limitation will suffice.
- e) The suspension must be consistent with a State's other international law obligations
 - i) A state, for example, cannot suspend movement if that suspension means that people cannot access healthcare (a right under the ICESCR)
- f) The suspensions cannot discriminate **solely** based on race, color, sex, language, religion, or social origin.
 - i) The discrimination cannot be solely based on the criteria. If there is an outbreak of Japanese Encephalitis in Bago, the state could suspend the right to movement (provided that it also brings healthcare to the area) even if the neighborhood is entirely Buddhist. They are not suspending their right to move because they are Buddhist, but because of their location.

Derogations from rights are more severe than limitations of rights and thus are more highly regulated. A high threshold must be met in order to wholly suspend a right. However, even when this threshold is met, there are rights that may never be suspended. Article 4(2) states explicitly that articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may never be suspended. What are these rights?

- a) Article 6 - the right to life
- b) Article 7 - the right to be free from torture or cruel, inhuman or degrading treatment
- c) Article 8(1-2) - the right to free from slavery or servitude
- d) Article 11 - freedom from debt imprisonment
- e) Article 15 - freedom from ex post facto laws
- f) Article 16 - right to recognition before the law
- g) Article 18 - freedom of thought, conscience, and religion

These seven rights are known as non-derogable rights. While these 7 rights are explicitly described as being beyond suspension, there are a number of other rights that share this protection from derogation.

The Human Rights Committee, the treaty body of the ICCPR, has determined that peremptory norms of customary international law (jus cogens norms) are also non-derogable. In General Comment 29, the HRC describes a number of these additional non-derogable rights.

- a) For States that have signed Optional Protocol 2 - the death penalty is non-derogable
- b) Discrimination based solely on race, color, sex, language, religion or social origin (but not necessarily national origin which is found in Article 26)
- c) Actions that give rise to individual criminal liability as Crimes Against Humanity (including forcible transfers of the population)
- d) Elements of minority rights (their right to exist, especially)
- e) Access to remedies for those whose rights have been violated

- f) Judicial guarantees and procedural protections
- g) Certain fair trial rights (as these are guaranteed under the Geneva Conventions, and an Armed Conflict is Public Emergency)

Limitations/Derogations Exercise Worksheet

Hypothetical situation

An earthquake strikes Northern Shan State, Myanmar. Thousands of people lose their homes and are without food, water, and electricity. The majority of those affected are ethnic Ta'ang (Palaung) people. Angry that the government has not sent aid, thousands of people gather to protest the government. At the protest many claim that the government does not care about minority groups and a few protesters call for the violent overthrow of the government. A skirmish breaks out between some of the protesters and a regiment of the military.

Discussion Questions

Discuss the following responses from the government. Decide if each response is a derogation or a limitation. Are they lawful or unlawful? Why or why not? (Make sure to justify your answer based on criteria established by ICCPR and discussed earlier.)

1) The government orders a curfew that applies to all Ta'ang (Palaung) people. All Ta'ang people must leave the streets by 8 p.m and may not return until 6 a.m.

2) The government orders that all of the protesters must leave the park where they are protesting and move to another park because traffic is disturbing a nearby school and hospital.

3) The government passes a law stating that the Ta'ang people are not Myanmar citizens and therefore are not entitled aid.

4) The government passes a law that says no groups may stage public protests for the next month in order to allow for aid and recovery.

Reservations, Understandings and Declarations: Debate/Role-Play Exercise

Goals of this exercise

- Examine the legal, political and ethical arguments that can be applied to reservations to treaties
- Develop argumentation and debate skills
- Develop teamwork skills

Explanation of exercise

In this exercise, students will develop arguments in favor and against the acceptance of a reservation to a human rights treaty provision. They will be asked to consider both legal and political perspectives.

Resources/Materials

[Reservations, Understandings, and Declarations Lecture Notes](#)

[Reservations, Understandings, Declarations Scenario Handout](#)

Time: Lecture and explanation of activity (Varies) - 15-45 minutes

Debate (depends on number of students) - 20-45 minutes

Instructions/Steps

Step 1: Complete [Lecture on RUDs](#).

Step 2: Distribute and review the [Scenario Handout](#) with students.

- Ask students to imagine that they are representing another country that has ratified the ICCPR and need to provide counsel to the UN ambassador of your country regarding how your country should respond. They may want to make both legal arguments (is it an acceptable reservation) and political arguments (is it worth accepting the reservation in order to secure US ratification of the treaty?) Specifically, they must answer the following two questions:

Q1: *What are the arguments you can make in favor of objecting to the reservation?*

Q2: *What are the arguments you can make in favor of accepting the reservation?*

- Explain to students that they will be selected at random to either defend or object to the reservation in class, so they must prepare both sides.

Step 3: Debate.

- *Option 1:* Ask students to work in teams (2-5 individuals) to prepare arguments for both sides. You can set aside time in class or make this a take-home assignment. Then, in class, randomly select two groups to present the argument in favor and the argument against.
- *Option 2:* Have students work alone or in teams to prepare briefing memos arguing both sides of the case as a written assignment.

Step 4: Discussion/debriefing of both sides of the argument.

Potential discussion questions for students include:

- *What were the strongest arguments for each side?*
- *Were there additional arguments you developed in your group that were not presented?*
- *Were there any rebuttals that were not used that you would have put forward?*
- *What were the weakest arguments for each side?*
- *Other comments/insights?*

After students have presented their arguments, provide the following background information.

Many states objected to the reservation, arguing that it was against the object and purpose of the treaty. A case was eventually brought to the Supreme Court of the United States (Roper vs. Simmons) and a decision was reached that it was unconstitutional to execute minors. The United States removed its reservation to the treaty. The Human Rights Committee now also says that no reservations may be made to Article 6 (Draft Comment 36).

This is one example of how public international law (and international human rights in law particular) is developed. International standards are developed, defined, refined over time through consensus-building until a position contrary to that consensus becomes untenable.

Additional RUD Exercise: [Myanmar Reservations to the CRC](#)

Myanmar initially made two reservations during its accession to the Convention on the Rights of the Child. These were later withdrawn. The article of the Convention and the corresponding reservation are below.

On 19 October 1993, the Government of Myanmar notified the Secretary-General its decision to withdraw the following reservations made upon accession with regard to articles 15 and 37:

Article 15

1. The Union of Myanmar interprets the expression 'the law' in article 15, paragraph 2, to mean the Laws, as well as the Decrees and Executive Orders having the force of law, which are for the time being in force in the Union of Myanmar.
2. The Union of Myanmar understands that such restrictions on freedom of association and freedom of peaceful assembly imposed in conformity with the said Laws, Decrees and Executive Orders as are required by the exigencies of the situation obtaining in the Union of Myanmar are permissible under article 15, paragraph 2.
3. The Union of Myanmar interprets the expression 'national security' in the same paragraph as encompassing the supreme national interest, namely, the non-disintegration of the Union, the non-disintegration of national solidarity and the perpetuation of national sovereignty, which constitute the paramount national causes of the Union of Myanmar.

Article 37

The Union of Myanmar accepts in principle the provisions of article 37 as they are in consonance with its laws, rules, regulations, procedures and practice as well as with its traditional, cultural and religious values. However, having regard to the exigencies of the situation obtaining in the

country at present, the Union of Myanmar states as follows:

1. Nothing contained in Article 37 shall prevent, or be construed as preventing, the Government of the Union of Myanmar from assuming or exercising, in conformity with the laws for the time being in force in the country and the procedures established thereunder, such powers as are required by the exigencies of the situation for the preservation and strengthening of the rule of law, the maintenance of public order (ordre public) and, in particular, the protection of the supreme national interest, namely, the non-disintegration of the Union, the non-disintegration of national solidarity and the perpetuation of national sovereignty, which constitute the paramount national causes of the Union of Myanmar.

2. Such powers shall include the powers of arrest, detention, imprisonment, exclusion, interrogation, enquiry and investigation.

(Note 42, Chapter IV.11, Multilateral Treaties Deposited with the Secretary-General)

Discussion Questions: *Do you think that these reservations were against the object and purpose of the treaty? Why or why not?*

Reservations, Understandings, and Declarations Lecture Notes

When are reservations allowed? How are they approved?

Article 19 of the Vienna Convention on the Law of Treaties specifies that when signing, ratifying, accepting, approving or acceding to a treaty, a State may make a reservation unless: (a) the reservation is prohibited by the treaty (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or (c) in cases not falling under the above two categories, the reservation is incompatible with the object and purpose of the treaty.

In other words, the language of the treaty will either:

- (1) State that no reservations are allowed
- (2) Specify which reservations are allowed or
- (3) Not say anything about reservations -- a state may make a reservation, so long as it is not incompatible with the object and purpose of the treaty. (We'll discuss what object and purpose means and who gets to decide in a moment.)

If the formulation of a reservation is allowed, a reserving state must officially, in writing, communicate any reservations. Each state then accepts or objects to the reservation.

What happens if a State objects?

An objection to a reservation does not prevent the treaty from entering into force between the reserving and objecting States unless a contrary intention is expressed by the objecting State. Instead, according to the VCLT, the provision of the treaty to which the reservation relates is modified (to the extent of the reservation) for both States in their relations with one another.

In the context of a trade agreement, for example, a state may think twice before trying to opt out of an obligation to respect intellectual property rights because any objecting State parties would no longer be obliged to respect the intellectual property rights of the reserving state. But, does the restraining power of reciprocity have the same effect when it comes to human rights treaties? Are state objections a sufficiently effective way of determining whether or not a reservation is acceptable? These are questions that the Human Rights Committee sought to address, at least in part, in its General Comment 24.

Reservations to human rights treaties: General Comment 24

A brief introduction to the Human Rights Committee (HRC) and [General Comment 24 on issues relating to reservations to the ICCPR \(Links to an external site.\)](#)[Links to an external site.](#): The Human Rights Committee is a body of independent experts that, among other things, monitors State compliance with the International Covenant on Civil and Political Rights (ICCPR), receives complaints, and issues interpretations of the content of human rights provisions in the form of General Comments. General Comment 24 addresses the standard by which a reservation should be deemed appropriate (object and purpose test), the role of States and the Committee in making such a determination, and the proposed consequences should a reservation be determined unacceptable.

Acceptability of a Reservation - Object and Purpose Test

The International Covenant on Civil and Political Rights is silent on the matter of reservations. However, referencing Article 19 of the VCLT, the Committee states that a reservation should be deemed unacceptable if it is incompatible with the object and purpose of the ICCPR.

Process - Role of State Objections

The Committee argues that State objections are not an effective way to determine whether or not a reservation is compatible with the object and purpose of a treaty. The Committee does not dismiss the role of State objections entirely - it notes that a State objection may provide some guidance. But, it concludes that the determination should ultimately fall to the Committee.

In presenting this argument, it notes:

[the] provisions (in the VCLT) on the role of State objections in relation to reservations are inappropriate to address the problem of reservations to human rights treaties...The principle of inter-State reciprocity has no place, save perhaps in the limited context of reservations to declarations on the Committee's competence under article 41. And because the operation of the classic rules on reservations is so inadequate for the Covenant, States have often not seen any legal interest in or need to object to reservations...Objections have been occasional, made by some States but not others, and on grounds not always specified...

Therefore, "the absence of protest by States cannot imply that a reservation is either compatible or incompatible with the object and purpose of the Covenant."

Consequence if an objection is determined to be incompatible with the object and purpose

The normal consequence of an unacceptable reservation is not that the Covenant will not be in effect at all for a reserving party. Rather, such a reservation will generally be severable, in the sense that the Covenant will be operative for the reserving party without benefit of the reservation.

Types of reservations by be considered incompatible with the object and purpose of the ICCPR
The General Comment does not provide an exhaustive list, but it does expands on some types of reservations that it considers incompatible with the object and purpose of the treaty. These include:

- Article 1 - Reservation to article 1 denying peoples the right to determine their own political status and to pursue their economic, social and cultural development.
- Article 2 - A reservation to the obligation to respect and ensure the rights, and to do so on a non-discriminatory basis
- (Article 2(1) would not be acceptable. Nor may a State reserve an entitlement not to take the necessary steps at the domestic level to give effect to the rights of the Covenant (Article 2(2)).
- Reservations that offend peremptory norms

...provisions in the Covenant that represent customary international law (and a fortiori when they have the character of peremptory norms) may not be the subject of reservations. Accordingly, a State may not reserve the right to engage in slavery, to torture, to subject persons to cruel, inhuman or degrading treatment or punishment, to deprive persons of their lives arbitrarily, to arbitrarily arrest and detain persons, to deny freedom of thought, conscience and religion, to presume a person guilty unless he proves his innocence, to execute pregnant women or children, to permit the advocacy of national, racial or religious hatred, to deny to persons of marriageable age the right to marry, or to deny to minorities the

right to enjoy their own culture, profess their own religion, or use their own language. And while reservations to particular clauses of Article 14 may be acceptable, a general reservation to the right to a fair trial would not be.

- Non-derogable rights (although the comment allows for the possibility of exceptions)

While there is no automatic correlation between reservations to non-derogable provisions, and reservations which offend against the object and purpose of the Covenant, a State has a heavy onus to justify such a reservation.

Source/Additional References:

Reservations and Declarations in Multilateral Treaties - Powerpoint presentation - Office of Legal Affairs, United Nations (2009). Available at:

<https://treaties.un.org/doc/source/training/regional/2009/13-17October-2009/reservations-declarations.ppt>

Discussion Notes (corresponding with Step 4)

The following are some possible arguments that can be made in favor and against the reservation.

Q1: What are the arguments you can make in favor of objecting to the reservation?

- *Argument in favor of objecting:*
 - The right to life is the fundamental right from which all other rights are realized. It is a non-derogable right and any attempt to weaken the right within the treaty goes against its object and purpose by weakening the realization of all of the rights in the treaty for a vulnerable class of people (If you don't have the right to life, you can't exercise any other rights).
 - Children receive special protections throughout international law (Convention on the Rights of the Child, Prohibition against Child Soldiers), a reservation that expands the ability of States to take the life of specially protected individuals clearly falls below the floor contemplated by the ICCPR and goes against the object and purpose.
- States around the world have begun outlawing the practice, and jurisprudence from regional human rights regimes all ruled against the practice (Europe, Americas, Africa)
- The prohibition against executing minors is widely understood to be a jus cogens norm of international law.
- Article 6(2) and 6(6) reflect the intent to reduce and abolish the death penalty. The United States' reservation reflects an intention to continue the practice that is against the object and purpose of the treaty.

Q2: What are the arguments you can make in favor of accepting the reservation?

- Even though it may be a violation of a peremptory norm and therefore against the object and purpose of the treaty, it is ultimately valuable to have the United States (or other countries with reservations) as a member of the ICCPR. These countries will have to participate in reporting processes, and will be forced to continually defend a contrary position within a group that can argue and continue to lobby in favor of a change of policy. Some argue that bringing a country into the system can eventually encourage compliance.

Reservations, Understandings, Declarations Scenario Handout

It is 1992 and the United States is about to ratify the ICCPR. However, it has decided to attach several reservations. One of them is to Article 6(5) of the ICCPR.

Article 6, *International Covenant on Civil and Political Rights*

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
- 5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.**
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

The reservation that the United States attached stated: *"[t]hat the United States reserves the right. . . to impose capital punishment on any person (other than a pregnant woman) duly convicted under existing or future laws permitting the imposition of capital punishment, including such punishment for crimes committed by persons below the age of eighteen years of age."*³

³ ICCPR, Declarations and Reservations, available at http://www.unhcr.ch/html/menu/b/treaty5_esp.htm (February 5, 2002)

Applying International Human Rights Law to a Fact Pattern: Situational Analysis

Goals of this exercise

- Analyze a situation (hypothetical in this instance) to identify rights and obligations
- Develop knowledge of sources of IHRL treaty, expert opinion (General Comments), CIL and jus cogens)
- Develop legal research skills (where to find text/sources of law, such as General Comments)
- Develop analytical and argumentation skills, including how to:
 - Review fact patterns and identify key information and legal questions
 - Apply sources of law to complex factual situations
 - Develop compound legal arguments and identify and respond to counter-arguments

Explanation of exercise

In this assignment, the educator facilitates the analysis of a fact pattern and helps learners identify relevant human rights violations and develop legal arguments in support of a finding that these violations have occurred. Students will need to prepare for this exercise in advance. The preparatory work will vary depending on which version of this activity you choose to complete (Please see below).

Note: This fact pattern focuses on violations of civil and political rights. Instructors may create a new fact pattern or amend this one in order to address different issues and/or treaties.

Time: 1-1.5 hours in-class (plus homework for students)

Resources/Materials

[Fact Pattern for Situational Analysis Handout](#)
[Situational Analysis of Fact Pattern Facilitator Guide](#)
[Situational Analysis Worksheet](#)
[Additional Legal Documents Handout](#)

Instructions/Steps

Step 1: Distribute [Fact Pattern for Situational Analysis Handout](#), [Situational Analysis Worksheet](#), and [Additional Legal Documents Handout](#) to students.

Optional: You may want to review the fact pattern in class and ask students if they have any questions about the fact pattern.

Step 2: Choose one of the following options for the exercise and then explain the assignment to students.

Exercise Option 1:

Ask individual students to prepare a memo/outline - either individually or as a group - to determine whether rights violations have occurred. This memo should:

- Identify which rights are violated (and in what way)
- Identify sources of law to substantiate the finding
- Apply the facts to the law to analyze the responsibility of the state or other violator

- Address and/or anticipate counter-arguments from different perspectives (Government, Victim, NGO, Business, or other stakeholder)

Explain to students that the worksheet identifies several questions they may want to consider when developing their memos.

Exercise Option 2:

Ask students to prepare a memo/outline - either individually or as a group - to determine that specific rights have been violated. This version of the exercises limits the scope and time it will take students to complete the exercise, but is not as comprehensive. Instead of asking students to identify all the potential rights violations, you may ask them to focus their memo on specific rights. Potential rights they could analyze include:

- Freedom of Expression
- Freedom of Assembly
- Liberty/security of person/arbitrary arrest/detention
- Right to Life
- Prohibition on Torture (or Cruel, Inhuman or Degrading Treatment)
- Treatment with humanity/dignity
- Potentially due process rights

This memo should:

- Identify how particular rights have been violated and in what way
- Identify sources of law to substantiate the finding
- Apply the facts to the law to analyze the responsibility of the state or other violator
- Address and/or anticipate counter-arguments from different perspectives (Government, Victim, NGO, Business, or other stakeholders)

Explain to students that the worksheet identifies several questions they may want to consider when developing their memos.

Exercise Option 3:

In class, you can walk through the fact pattern and help them to consider fully the implications presented in the scenario (A list of issues that the fact pattern raises is provided below - a 'cheat sheet' for instructors). In this version of the exercise, the instructor facilitates the analysis of the situation with the students, rather than asking students to complete the analysis on their own. You can complete the entire analysis using this approach, or you can walk students through the analysis of 1-2 writes and then ask them to focus their memos on 2-3 different rights.

Exercise Option 4:

The instructor can also use this fact pattern and worksheet to introduce and teach issues related to international human rights law more generally - for example: treaty obligations; the meaning and definition of rights, customary law, reservations, understandings, and declarations; and other concepts of human rights law (see the exercise worksheet below for more questions). Once students have a better understanding of these concepts, you can then use the fact pattern to complete exercises 1, 2, or 3. The fact pattern exists so that concepts can be explored practically - one possible example -

You may ask your students: What does it mean for a public emergency to 'threaten the life of the nation? (Hint, the HRC answers this in General Comment 29) After they answer you can look at the fact pattern and ask them, does this type of protest really threaten the life of the nation (like an armed conflict, or a natural disaster) or is it merely a threat to the political party? You could help cement their understanding of the concept by asking them to tell you what facts could be added that would make the situation a public emergency.

The goal is to help students identify the answers to the types of questions listed above. Try to help them reach these answers on their own rather than simply giving them the answer. Instructors can examine/focus on different issues found in the fact pattern in different class/tutorial sessions.

Fact Pattern for Situational Analysis Handout

Mass protests have broken out in country A in response to the election of a new President. In the first months of her presidency, millions of people took to the streets to protest her racially charged campaign and statements. While mostly peaceful, a number of violent outbursts have occurred between police and protesters.

Three weeks ago, following the shooting of a protester by police, community organizers planned another country-wide protest. An estimated 5 million people were expected to protest in Country A's two largest cities, and hundreds of thousands more across the country in towns and villages.

The president, citing the risk of violence, economic disruptions, and public disorder overturned the legal policies of the government and declared the protest unlawful. She declared a public emergency and banned all public gatherings over 100 people for a month. She issued an order to police that they could arrest and detain any protester and hold them for up to 10 days without charge.

A reported 3.5 million people took to the streets despite the President's orders. Police arrested hundreds of protesters and held them for between 3-10 days. 80% of those arrested were ethnic minority B persons, and 95% of those held for 7-10 days were ethnic minority B persons. Around 20 ethnic minority B men believed by police to be organizers of the protests were held beyond the 10 days and subjected to harsh interrogations. Each has been sentenced to 2 years imprisonment for the crime of 'rioting or incitement to rioting'. The sentences were handed down by military officers in 20 minute hearings held without lawyers or evidence. The men claim to have been mistreated in prison, held nude and in complete solitude throughout their detention, and unfairly sentenced.

Country A has ratified the ICCPR, its additional protocol, and the Geneva Conventions. It has not ratified CAT.

In ratifying the ICCPR, Country A attached an understanding that solitary confinement is an acceptable interrogation method. The reservation does not make any mention of the permissible duration of any solitary confinement.

Most states have condemned solitary confinement through domestic case law and have criticized the practice in multiple international fora, including the Universal Periodic Review process of the Human Rights Council. In fact, Country A has publicly criticized the United States for its prolonged use at Guantanamo Bay as a violation of international law.

Situational Analysis of Fact Pattern Facilitator Guide

The following outlines the rights that are implicated in the fact pattern, the rules regulating those rights, and the obligations they impose on the State (both positively and negatively). It provides answers to the questions that students are asked to consider when writing their memo (see student worksheet below).

This can be used by the instructor to help students analyze the fact pattern and/or to provide feedback/comments on student memos, depending on the activity you use in your classroom.

What are the human rights violations that occurred?

Civil and Political Rights:

- Right to life (death of a protester by the government)
- Right to assembly/expression (ICCPR Arts 19+21)
- Arbitrary Detention (ICCPR Art. 9)
 - According to law
 - Informed of charges
 - Appear promptly before a judge
 - Release/Bail
 - Compensation/Remedy
- Fair Trial
 - Public hearing
 - Charges
 - Counsel
 - Confront evidence
 - Appeal
- Torture or cruel, inhumane, or degrading treatment
 - Held in solitude
 - Naked
 - Mistreatment
- Others?
 - Duty to thoroughly and transparently investigate the killing of the protester?
 - Right to religion? - If more than 100 people cannot assemble, how does one go to church, pagoda, mosque, temple or other religious service?

What are the sources of law that you can reference to make an effective claim that those violations have occurred? Sources can include: customary international law (state practice + opinio juris), treaties, expert opinions (including general comments), case law, etc.

Sources: ICCPR and OP1, Geneva Conventions, Customary International Law, Human Rights Committee General Recommendations

What rules do these sources impose on the interpretation of the situation? For example: are the permissible limitations or exceptions?

ICCPR

Limitations: (specific protest)

Was it done by law?

Was it necessary? What does this mean?

Was it for a permitted purpose – What are they? National Security? Public Order?

Derogations: (all gatherings)

Is there a public emergency (see Art. 4 ICCPR)?

Threaten the life of the nation

Declared

Strictly required? What does this mean? Least restrictive alternative

Discriminatory? Disproportionately affects a minority community

Non-derogable rights (what are they?)

Geneva Conventions

Common Art. 3 – provides protections from arbitrary detention and unfair trials during Armed Conflict. AC's are a form of public emergency. For this reason

Customary International Law does not permit derogations from Fair Trial or Arbitrary Detention (even though they are not listed as a non-derogable rights in Article 4 of the ICCPR - this is advanced analysis)

Do the treaties or opinions have any procedural requirements? (For example: Exhaustion of domestic remedies.

ICCPR Optional Protocol 1

- Exhaustion of domestic remedies (Have they been exhausted? Is it possible to exhaust them?)

Are there any relevant reservations to the treaty at issue? Are the reservations lawful? (Remember to review section on RUDs for more about what makes a reservation against the object and purpose of a treaty).

- The reservation may be ok, but it is overly broad and vague. There is no way for a person to know whether what is being done to them is lawful or unlawful, which defeats the object and purpose of the protections against arbitrary detention, and CIDT

Are there general comments or other expert opinions that you can point to in support of your interpretation of the treaty?

- Yes - HRC, GC's 29 and 35

Can you make an argument that customary international law applies?

- Yes – CIL considers arbitrary detention/fair trial to be protected even in public emergencies

What are potential counter-arguments that might be made against your position? How can you respond to these arguments?

- Limitations – we don't know the legal process in the state. Perhaps under their system (constitution/statutes) a President can make law
- The purposes of the limitations are public order and safety. Considering the violence, perhaps it is.
- The limitations do not exceed 10 days – perhaps that is reasonable.
- Others?

Situational Analysis Worksheet

What are the human rights violations that occurred?

What are the sources of law that you can reference to make an effective claim that those violations have occurred? Sources can include: customary international law (state practice + opinio juris), treaties, expert opinions (including general comments), case law, etc.

- What rules do these sources impose on the interpretation of the situation?
 - For example: Does the treaty outline the elements that need to be met by a state in order to limit or suspend the rights found within?

 - Do the treaties or opinions have any procedural requirements? (For example: Exhaustion of domestic remedies)

 - Are there any relevant reservations to the treaty at issue? Are the reservations lawful? (Remember to review section on RUDs for more about what makes a reservation against the object and purpose of a treaty).

 - Are the opinions binding?

- Are there general comments or other expert opinions that you can point to in support of your interpretation of the treaty?

- Can you make an argument that customary international law applies?

What are potential counter-arguments that might be made against your position? How can you respond to these arguments?

Fact Pattern Analysis: Additional Legal Documents

These following are selected excerpts of laws/interpretations that will be helpful references when making legal interpretations and arguments during this exercise. Please note that additional rights violations and laws may be identified or referenced.

[International Convention on Civil and Political Rights](#) Also available in Myanmar language [here](#).

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Each State Party to the present Covenant undertakes:
 - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
 - (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 - (c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.
3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.
2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Fourth Geneva Convention Relative to the Protection of Civilians

Article 42

The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary...

Article 43

Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favourable amendment of the initial decision, if circumstances permit.

Geneva Conventions 1-4

Common Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

[Human Rights Committee General Comment No. 29: Article 4: Derogations during a State of Emergency](#)

16. Safeguards related to derogation, as embodied in article 4 of the Covenant, are based on the principles of legality and the rule of law inherent in the Covenant as a whole. As certain elements of the right to a fair trial are explicitly guaranteed under international humanitarian law during armed conflict, the Committee finds no justification for derogation from these guarantees during other emergency situations. The Committee is of the opinion that the principles of legality and the rule of law require that fundamental requirements of fair trial must be respected during a state of emergency. Only a court of law may try and convict a person for a criminal offence. The presumption of innocence must be respected. In order to protect non-derogable rights, the right to take proceedings before a court to enable the court to decide without delay on the lawfulness of detention, must not be diminished by a State party's decision to derogate from the Covenant.[i]

[Human Rights Committee General Comment No. 35: Article 9: Security and Liberty of Person](#)

1. Article 9 is not included in the list of non-derogable rights of article 4, paragraph 2, of the Covenant, but there are limits on States parties' power to derogate. States parties derogating from normal procedures required under article 9 in circumstances of armed conflict or other public emergency must ensure that such derogations do not exceed those strictly required by the exigencies of the actual situation.[1] Derogating measures must also be consistent with a State party's other obligations under international law, including provisions of international humanitarian law relating to deprivation of liberty, and non-discriminatory.[2] The prohibitions against taking of hostages, abductions or unacknowledged detention are therefore not subject to derogation.[3]

2. There are other elements in article 9 that in the Committee's opinion cannot be made subject to lawful derogation under article 4. The fundamental guarantee against arbitrary detention is non-derogable, insofar as even situations covered by article 4 cannot justify a deprivation of liberty that is unreasonable or unnecessary under the circumstances.[4] The existence and nature of a public emergency which threatens the life of the nation may, however, be relevant to a determination of whether a particular arrest or detention is arbitrary. Valid derogations from other derogable rights may also be relevant when a deprivation of liberty is characterized as arbitrary because of its interference with another right protected by the Covenant. During international armed conflict, substantive and procedural rules of international humanitarian law remain applicable and limit the ability to derogate, thereby helping to mitigate the risk of arbitrary detention.[5] Outside that context, the requirements of strict necessity and proportionality constrain any derogating measures involving security detention, which must be limited in duration and accompanied by procedures to prevent arbitrary application, as explained in paragraph 15 above,[6] including review by a court within the meaning of paragraph 45 above.[7]

Developing a Fact-Pattern Learning Activity

Goals of this exercise

- To promote greater understanding of human rights concepts in relation to each other and “real-life” situations
- To promote greater understanding of how human rights is addressed through international human rights law, including nuances and gaps
- To promote critical and creative thinking

Explanation of exercise

In this exercise, learners will develop their own human rights learning activity based on a fact-pattern that addresses specific human rights concepts. You can ask groups to work on different concepts, or develop different activities based on the same 4-6 concepts.

You can assign concepts from the activity entitled: [Matching Human Rights Concepts to Definitions and Examples: Game](#), or you can select different concepts depending on what rights issues you are teaching (women’s rights, socio-economic rights, minority rights, etc.).

This exercise asks learners to consider multiple factors, interests, and obligations (legal and extra-legal) that can influence a human rights situation, as well as how multiple human rights issues can influence each other. This exercise works best once learners are comfortable analyzing a situational analysis or fact pattern that has been given to them. Creating a fact pattern requires students to consider multiple perspectives and to think both critically and creatively.

Note: This exercise can be modified by changing the number of concepts or by limiting the length of the fact pattern.

Time: 3 hours (varies depending on which aspects are completed in class or as a take-home assignment)

Resources/Materials

[Developing a Fact Pattern Worksheet](#)

Instructions/Steps

Step 1: Introduce the activity to students.

In this activity, students will be given 4-6 human rights concepts. (*See Step 3 for the list of concepts*). Students will then develop (1) a fact pattern and (2) a learning activity that uses the fact pattern in order to teach these concepts to their classmates.

After each group has developed the learning activity (including the fact pattern) in small groups, they will either (1) present it to the class or (2) pilot the learning activity.

Optional: After the groups have presented, the rest of the class can try to determine which key concepts they selected. The class can also provide feedback on the learning activity.

Step 2: Review the key concepts as a class. Give students the opportunity to answer any questions they may have about these concepts.

Step 3: Assign concepts to the group.

Option 1: Assign concepts to each group.

Option 2: Write the concepts on a piece of paper and let students randomly draw for their 4-6 concepts.

1. Direct/Indirect Discrimination
2. Substantive Equality
3. Positive obligations
4. Presumption of innocence
5. Right to a remedy
6. Privacy
7. Minimum core obligations
8. Reservations (object and purpose)
9. Limitation/Derogation
10. Access to information
11. Best interest of the child
12. Progressive realization
13. Effective participation
14. Torture v. CIDT
15. Arbitrary Detention
16. Right to Life
17. Right to Health
18. Right to Religion
19. Special measures
20. Free speech

List of concepts and examples of violations/definitions is available in the exercise entitled: [Matching Human Rights Concepts to Definitions and Examples: Game](#).

Step 5: Provide some general guidance on how to develop learning activities.

Distribute the [Developing a Fact Pattern and Learning Activity worksheet](#) and review the questions/explanatory text related to developing learning objectives, developing a fact-pattern and ideas for different learning activities.

Explain that they can use this as a guide for completing the assignment. However, you should explain that while they should answer all of the questions in the worksheet, they do not necessarily need to answer the questions in order.

Step 6: Students prepare fact pattern and learning activity.

Option 1 - Ask students to prepare the fact sheet and learning activity as homework.

Option 2 - If time allows, you can ask students to prepare the fact pattern and learning activity in class. (Recommended time of 45-60 minutes).

Step 7: Students present or pilot their learning activity.

Students briefly present their activity and/or pilot the activity. If they are presenting the activity, they will present the learning objectives and explain the activity, but the class will not actually complete the activity.

If they are piloting the activity, members of the student group act as facilitators/instructors and the rest of the students complete the learning activity that the group has developed.

If the activities will be piloted/completed in class (which is recommended), you will need to inform students of how long their learning activity should take, depending on the number of groups that will present and the class time available.

If you do not have time for all students to pilot their learning activity, you can ask all students to present the activity and then select or have students select 1-2 activities to pilot.

Step 8: Group Feedback/Discussion Questions.

Q1: What concepts do you think this group selected and why do you think those are the concepts?

Q2: Are there any concepts that were introduced that you would like clarification on?

Q3: What do you like about this activity?

Q4: Suggestions for improvement?

Q5: In what ways does this activity help achieve the articulated learning objectives?

Developing a Fact Pattern Worksheet

Group Members:

What are your concepts? (Remember, don't share these with the other groups. They have to guess what your concepts are).

What are the learning objectives of your activity? What knowledge/understanding/skills/attitudes do you hope students will develop by participating in this activity? What competencies do you want to evaluate through this activity? The type of activity/exercise you will develop will depend on what your objectives are.

For example, some learning objectives could be: To develop students' ability to (1) *Identify*: Sources of law, Violations, Key stakeholders and positions, Possible response mechanisms, Relationship between rights and (2) *Analyze*: Relationship between rights, Various interpretations of the law, Elements of a concept/law/article.

What is your fact pattern? No more than one page (ideally 2-4 paragraphs). You can hand write it on a separate piece of paper, or type it on your phone/computer.

Questions to consider when developing the fact pattern

How do you hide a concept in a narrative - what details reveal the violation or potential violation of the concept you want your students to identify? How difficult or obvious (easy) do you want each concept to appear in the facts (you might make some easy, and some more difficult? What elements do you need to show? Do you want to create scenarios with 1-2 straightforward answers or with many possible points of analysis?

For example - if your concept is Torture or Cruel, Inhuman or Degrading Treatment (T/CIDT) - you may not want to write in the fact pattern " the prison guards treated her cruelly or that they tortured her." Rather, you are encouraged to develop a fact pattern that makes the person analyzing the fact pattern

consider whether the treatment is torture or CIDT. In making such a determination, students can use various sources of law, such as cases or general comments.

What is your activity/exercise? Please briefly describe it below.

Questions to consider: What instructions will you give to students? What are they asked to do? What are the outputs? What is the set-up? (Do students work alone, in small groups?)

Examples of activities/exercises include: a series of exam questions, group discussion, debate activity, memo exercise, lecture that uses the fact pattern to explicate issues/concepts, exercise where students are asked to develop a policy or action plan to address rights violations, etc.

Justiciability of ESC Rights: Using Case Law and the Socratic Method

Goals of this exercise

- Analyze judicial decisions focused on economic, social and cultural rights
- Identify issues, rules, and conclusions made by the court
- Analyze the legal reasoning in relation to the facts of the case
- Consider whether or not you agree with the results of the decisions and why
- Distinguish the analysis in companion cases that reach different conclusions

Explanation of exercise

This exercise presents two cases that focus on socio-economic rights. The goal is to facilitate a discussion that will consist of questions posed by the instructor and responses provided by the students, followed by discussion and follow-up questions and responses. Through this collaborative process, the class will detail and discuss:

- The facts of each case
- The procedural histories of the cases
- The legal issues presented
- The applicable legal rules
- The application of the rules to the facts (legal analysis)
- The ruling (or the conclusions reached by the court)

For each of these elements, an instructor checklist has been provided to help instructors facilitate the discussion.

Time:

- Homework - 1-1.5 hours
- Class time - 1-1.5 hours

Resources/Materials

[Case excerpts for *Soobramoney v. Minister of Health* and *Minister of Health v. Treatment Action Campaign* \(South Africa\)](#)

Instructions/Steps

Step 1: Distribute the case excerpts to students at least one day prior to class.

Step 2: Begin by asking about the facts (and only the facts) in relation to the case, *Soobramoney v. Ministry of Health*. In order to actively engage students, ask multiple individuals to provide different details. Instructors should keep track of the facts identified by students to make sure all the key points are covered, providing information not identified by the students as needed.

Instructor Checklist - Facts of the Case

- Soobramoney is a 41 year old man with chronic renal failure
- Dialysis would prolong his life.
- Dialysis lasts 4 hrs per session (6 hours for the hospital including preparation)

- 3 such sessions are required per week for the patient
- Hospital 'unable' to provide – no budget, have asked for more, but none available
- Soobramoney was denied treatment because of hospital policy
- What is the policy of the hospital with respect to access to dialysis?
 - Only acute renal failure as opposed to chronic– those who can be cured get automatic access.
 - Those with irreversible condition do not get automatic access but can be put on a list
 - However, preference goes to those eligible for transplant.
 - Soobramoney is not eligible for a transplant for other health reasons.
- Can Soobramoney go to a private hospital? (Yes, he did at first, but can no longer afford to.)

Step 3: Once satisfied that the facts have been ascertained, begin to question students about the applicable law. Students will often want to jump to the conclusion or outcome of the case, but one goal of this exercise is to isolate the relevant parts of the case, so try to keep them focused only on the applicable law at this stage.

Instructor Checklist - Applicable Law

South African Constitution (which is based specifically upon CEDAW)

- Art. 26-8
- Art. 27 Health care, food, water and social security
 1. Everyone has the ***right to have access to*** (italics added)-
 - a. Health care services, including reproductive health care;
 2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.
 3. No one may be refused ***emergency medical treatment*** (italics added)
- Art. 28
 1. Every ***child has the right*** - (italics added)
 - a. ...
 - b. ...
 - c. To basic nutrition, shelter, basic health care services and social services
- Art. 36 Limitations of Rights
 1. The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality, and freedom, taking into account all relevant factors, including
 - a. The nature of the right;
 - b. The importance of the purpose of the limitations;
 - c. The nature and extent of the limitation;
 - d. The relation between the limitation and its purpose; and
 - e. Less restrictive means to achieve the purpose
 2. Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

Step 4: At this stage, the instructor should begin to ask about, explore, and isolate the arguments made by the parties to the case.

Step 4.1 - Review the *Instructor Factsheet on Constitutional Argument* and the *Instructor Checklist on Assessment of Arguments* in preparation for the discussion with students.

Step 4.2 - Ask students to identify the various arguments of the case. If students do not identify all the arguments indicated in the *Instructor Checklist on Assessment of Arguments*, you may want to ask follow-up questions to help them identify these arguments or you may otherwise want to identify some of these arguments for the students. In addition to asking students to identify the arguments, make sure to also ask them whether or not they agree with each argument and why or why not.

Instructor Checklist - Assessment of Arguments (See factsheet below for an explanation of different types of arguments)

- *Textual Argument* - No one may be denied “emergency medical treatment.” What is the meaning of ‘emergency’? Is it broad or narrow? The presumption should always be broad in the absence of compelling reasons, but court says it is narrow in this case due to the nature of the facts..
- *Structural Argument* - If 27(3) is read broadly to include things like dialysis, it renders 27(1) and (2) meaningless.
- *Doctrinal Argument* - Emergency treatment should be read like it is in India’s *Samity* case - where he fell off of a train and was turned away from multiple hospitals. Why do they look to India? (because it has similar constitutional requirements and has developed jurisprudence on these specific issues while S.A. has not.) In *Samity*, the accident was sudden and he had no opportunity for other arrangements. The opportunity for other arrangements relates to 27(1) right to ‘access’. If *Soobramoney* were a child, he might be guaranteed dialysis because children have the right without caveats, not merely the right to access health care subject to resources.
- *Prudential Argument* - Prioritizing treatment for terminal cases over others means reductions in preventative and non-life threatening care for others – this can’t be justified by language of 27(3)
- *Structural/Prudential Argument* - Assessing 27(2) in light of the health budget - *Soobramoney* does not contest the resources available at hospital, only that state must provide if hospital does not have.
 - However, the court notes that the S.A. government outspent their health budget by \$152 million in the prior year, and that it is on pace to overspend by \$700 million in the current year

Instructor Factsheet on Constitutional Arguments

There are six generally recognized forms of Constitutional Argument/Interpretation. These are the types of arguments made by judges and lawyers when either arguing or reasoning in court proceedings. The six forms of argument are:

- *Textual Argument* - An argument made directly in relation to the wording of a law, statute, regulation, or article. An example might be an argument about the meaning of the word “sufficient” in Article 412(a) of the Myanmar Constitution.
- *Doctrinal Argument* - An argument extending the legal reasoning made by a prior court decision in another case. Often they are arguments about legal precedent. An example of this type of argument might note that in an earlier case, a court determined that the existence of numerous

attacks within a region by a paramilitary force/militia was “sufficient” for declaring a state of emergency under Article 412(a) of the Myanmar Constitution.

- *Historical Argument* - An argument about the original intent of the drafters of a particular law, statute, regulation, or article. An example might be an argument that shows that when Article 412(a) was being drafted, the lawmakers stated that verbal threats of violence were not “sufficient” for declaring a state of emergency under Article 412(a) of the Myanmar Constitution.
- *Structural Argument* - An argument based on the structure of the constitution as a whole (the way that it sets up the system of government), rather than about a particular section or article. An example might be an argument that even if the President has the power to decide if a situation is ‘sufficient’ in order to declare an emergency according to Article 412(a), he/she is still bound by the Constitution as a whole, which states that the Supreme Court has the power to review that determination and the President must abide by such a ruling.
- *Prudential Argument* - A results oriented argument based on efficiency and good sense. An example might be a statement that “Sufficient” should always be interpreted strictly or the system of government has no meaning. If we interpret “sufficient” lightly then the President has unlimited power to overrule States, Regions and Autonomous Regions on any issue at will.
- *Ethical (or traditional) Argument* - An argument made about the ethics or traditions of the jurisdiction. An example might be an argument that the preservation of the union is the strongest constitutional imperative in Myanmar and any interpretation of “sufficient” that leads to a result that would actually threaten the union would be incorrect.

When arguing on behalf of a client, or in making a judicial decision, lawyers and judges will use many of these forms of argument at the same time, often combining them to strengthen their legal position. Students should note these arguments within judicial decisions in order to assess their efficacy and in order to construct counter-arguments.

Step 5: The next step is to ask students about the analysis the court uses in relation to the facts.

Instructor Checklist - Factual/legal analysis points

- The court outlines the current state of affairs in S.A. and notes myriad problems that all need attention.
- Wealth disparity/unemployment/social security/clean water/health care – all massive problems. This does not mean they are not rights, but that they are aspirational and subject to progressive realization. (Why do they outline all of these problems?)
- Constitution gives an unqualified obligation – but it is currently impossible, and under this reality the court must proceed. (Is it really ‘impossible’ or is it a matter of priority?)
- ESC rights were adopted in this manner precisely because of resource restraints as state obligations are dependent on them.
- Government must have guidelines to make agonizing decisions. How do we evaluate these guidelines? What is the standard by which we judge the government on their use of these guidelines?
- Reasonability is the standard and the decisions are made on a case-by-case basis. Is the government’s policy rationally related to the facts, goals, and contexts of the situation?
- On the current facts, the guidelines used by the hospital provide more people benefit/access than if dialysis is used for chronic cases. The outcome is more beneficial – curing v. maintaining
- The policy is also not applied unfairly or in an impermissibly discriminatory fashion.

Step 6: It is now time to assess the ruling and any outstanding questions.

Instructor Checklist- Assess Ruling and Outstanding Questions

- The court finds that the requirement to provide dialysis for all would use too great a portion of overall budget. Health budget would have to go way way up at expense of other needs. (What if 80% of the budget was dedicated to security? Would the calculus change?)
- The court notes that courts, in general, are not well situated or trained to make these decisions. They are political and functional/administrative decisions that need to be made by elected politicians and medical doctors/administrators.
- This does not mean that the court has no oversight. However, so long as the appropriate authorities (administrators, officials, etc...) make rational, reasonable decisions, taken in good faith, as they have in this case, the court will be slow to interfere.
- The difficult and unpalatable fact is that if Soobramoney were wealthy he could get the treatment. But neither he, nor the S.A. government are wealthy. He cannot compel the state to spend its budget as he sees fit. (Would the answer of the court be the same if the case was in a wealthier state? Would the US be able to claim a lack of resources?)

Step 7: The class discussion will now focus on the next case, repeating the previous 6 steps. Begin by asking about the facts, and only the facts in relation to the case, ***Treatment Action Center v. Ministry of Health***. It is important to get people involved, so you can have multiple students provide different details. However, as the instructor you will have to keep a list, and provide extra details where needed until you are satisfied that the case has been outlined. (Note, in this case, the facts sometimes overlap with aspects of the analysis and may be hard to distinguish. It is OK if there is some repetition.)

Instructor Checklist - Facts of the Case

- Mother to child transmission of HIV/AIDS – 70k per year in this manner
- Nevirapine reduces – Medicine Control Council approves – safe, quality, efficacious
- Private doctors can and do prescribe Nevirapine
- Makers of N offered to make the drug available free of charge for 5 years
- Government formally decided to make Nevirapine available at pilot sites, 2 per province
- Other public clinics/hospitals left out of this arrangement and don't have access to the drug
- SA Drug Program
 1. counselling and testing
 2. Nevirapine
 3. Formula
 4. Training
 5. 2 sites per province for 2 years to study
 6. control group is other public hospitals/clinics

Step 8: Once satisfied that the facts have been ascertained, ask students about the applicable law. Students will often want to jump to the conclusion or outcome of the case, but one goal of this exercise is we are trying to isolate the relevant parts of the case, so try to keep them focused only on the applicable law at this stage.

South African Constitution (which is based specifically upon CEDAW)

- Art. 26-8
- Art. 27 Health care, food, water and social security

4. Everyone has the ***right to have access to*** (italics added)-
 - a. Health care services, including reproductive health care;
 5. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.
 6. No one may be refused ***emergency medical treatment*** (italics added)
- Art. 28
2. Every ***child has the right*** - (italics added)
 - a. ...
 - b. ...
 - c. To basic nutrition, shelter, basic health care services and social services
- Art. 36 Limitations of Rights
3. The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality, and freedom, taking into account all relevant factors, including
 - a. The nature of the right;
 - b. The importance of the purpose of the limitations;
 - c. The nature and extent of the limitation;
 - d. The relation between the limitation and its purpose; and
 - e. Less restrictive means to achieve the purpose
 4. Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

Step 9: At this stage, the instructor should begin to ask about, explore, and isolate the arguments made by the parties to the case. Be sure to inquire whether or not students agree with each argument.

Instructor Checklist - Assessment of Arguments

- Textual Argument - Whereas every person has the right to access healthcare, children have a stronger right, they have a right beyond access. They have the right to basic health care. What does “basic” mean here? Right to life. Without Nevirapine, South Africa’s policy is condemning the children to death.
- Doctrinal Argument - The word “basic” should be read broadly. That is the default rule. Even though the word “emergency” was read narrowly in Soobramoney, the court stated that the usual rule is to read these words in a manner to provide the highest standard of health. There is no policy reason to read it narrowly.
- Prudential Argument - The drug is available to all for free. If it can be attained privately, it should, if no other costs are associated with it, be available to all.

Step 10: It is now time to question students about the analysis the court uses in relation to the facts.

Instructor Checklist - Legal analysis of facts and arguments

- The standard by which we judge limitations is whether the limitation is “reasonable and justifiable”.
- The decision to exclude (condemn to death) children for the purposes of conducting a study is not rational.

- It is not rational because there is no need to make a resource decision. The drug is free of charge, and while there is a risk that children who do not receive the entire preventative program might contract HIV, the drug will prevent immediate transmission.
- The government of SA has not planned and implemented an effective, comprehensive and progressive program for preventing HIV transmission. Thus they have failed in their positive obligations even before they made the decision to limit the drug.
- The SA government gave 4 reason for confining the drug. However, these arguments need to be assessed based on reasonability.
 1. Efficacy - Children can still transmit through breastfeeding
 2. Drug resistance - possible, but deserves little weight next to benefit – single tablet – future resistance outweighed by death and grave suffering
 3. safety – hypothetical only – drug was recommended by WHO with 0 qualification by and available without restriction from private doctors
 4. Technical capacity – only relevant to full package – drug still helps without the rest of the program.
 5. Budgetary implications - no cost.

Step 11: It is now time to asses the ruling and any outstanding questions.

Instructor Checklist- Assess Ruling and Outstanding Questions

- Determinations of reasonableness may in fact have budgetary implications, but are not in themselves directed at rearranging budgets – constitutional balance. Courts are not well-suited to determine national budgets, this is a political calculus that should be determined by the legislature, but a court can make a determination that the legislature has failed to fulfil its legal obligations in addressing a particular issue.
- A person is not entitled to demand minimum core be provided directly – it is not a self-standing right. In many cases, it would be impossible for an individual to be provided with even the bare minimum due to circumstances including time, money, and other resources. This is why the courts address the policies through a reasonability lens.
- A State can choose a wide range of options – the courts are not institutionally equipped for wide-ranging factual and political inquiries or deciding how public resources are most effectively spent – many pressing demands – BUT...
- The court can determine reasonability and require the state to take a different approach.
- AND – there remains the absolute negative obligation to desist from impairing persons from securing their rights. Here, the State was preventing people from securing their right to life.
- Is the court making a judgment independently about what the most important issue (or even health issue) in S.A. Is this the job of the court? Considering the situation in SA between renal failure and HIV, is the court within its rights?
- Searching for the perfect policy cannot be reasonable when a good policy can save the lives of many, especially when those persons are a vulnerable class such as children.

Step 12: Contemplate the cases together. How can you distinguish the two cases? What are the core differences? Can students change some aspect of the facts of the cases that would require a different result? Can students manipulate the reasoning provided in the cases and apply it to different factual scenarios?

Divide the Pie and Justify: Making Legally Justifiable ESC Policy Decisions

Goals of this exercise

- Strengthen ability to rational and legally justifiable arguments for policy decisions regarding economic, social, and cultural rights
- Demonstrate understanding and ability to use economic, social, and cultural rights concepts such as 'progressive realization', 'minimum core obligations', 'international assistance', etc...
- Apply reasoning used by courts in South Africa and India in relation to economic, social, and cultural issues in one's own country

Explanation of exercise

In this assignment, the educator presents learners with (1) a particular set of ESC issues that a State must address and (2) a limited, fixed budget that can be used to address the issues.

Working in groups, students will have to determine how best to allocate their limited resources and to provide legitimate explanations for each of their decisions.

Time: 1 - 1.5 hours

Resources/Materials

[Divide the Pie Handout](#)

Instructions/Steps

Step 1: Divide students into groups of 3-5 individuals.

Step 2: Distribute the worksheet and review the issues in class, the costs of each project, and the total budget. Answer any questions students may have.

Step 5: Explain to students that their goal is to create a budget and that they will have to explain their choices using ESC legal concepts.

Step 6: Ask each group to present their budget and explain their rationale. You can also select 1-2 groups to present.

Step 7: Group discussion/feedback after each presentation.

Q1: *Was the rationale provided clear?*

Q2: *Would the decisions be considered 'reasonable' under IHRL and ESC jurisprudence/practice?*

Divide the Pie Handout

The country is facing the following issues. If you were to solve each and every problem, it would cost \$1,800. The country has an annual budget for these issues set at \$1000. Students will need to decide how they will allocate resources to these various issues and develop a justification for the decisions/omissions they make.

Issues

1. There is no accredited university in Chin State. As a result, Chin youth are 80% less likely to attend university than students with similar marks from other states/regions because they are forced to leave their families, travel great distances, and often face language barriers at universities in other parts of the country. Chin State is the only state/region without an accredited university.
 - a. The cost to establish and run the university is \$150
 - b. You must spend the entire \$150 to build the university or \$0 and not build the university.
2. There is an outbreak of Zika in Yangon. The Zika virus poses risks for pregnant women because it causes severe birth abnormalities in fetuses. The Zika virus is passed on by mosquitos.
 - a. The total cost of implementing Zika eradication measures is \$150
 - b. Zika testing for all pregnant women in Yangon = \$40
 - c. Mosquito DNA editing and release (this solution results in the breeding out of Zika carrying mosquitos) = \$60
 - d. Zika monitoring and prevention programs at Airports/Ports/Borders to prevent the further spread of the virus = \$50
3. Creation of an organ transplant center at New Yangon General Hospital. Currently, no hospital in Myanmar is equipped to carry out organ transplants (kidney, heart, lung, etc...). Persons requiring transplants must travel to Bangkok or other foreign cities. Only the extremely wealthy are capable of making these trips and are able to pay foreign health care prices.
 - Kidney transplants - The need for kidney transplants has risen 30% in Myanmar in the past 20 years. Kidney transplants are often not needed to save the life of a patient - persons can live with a single kidney - but kidney transplants are much cheaper than other organ transplants, are highly successful, and eliminate the need for expensive and painful daily dialysis treatment. Patients who do not receive a transplant are usually unable to work and often need long-term financial support as a result.
 - Heart transplants - These are required to save the life of the patient. They are successful only 60% of the time and are very expensive.
 - Lung transplants - This procedure is the riskiest of all organ transplants, and like heart transplants are required to save the life of most patients. They are successful in only 30% of cases. The need for these transplants have grown due to the number of people who smoke cigarettes and other substances in Myanmar.
 - a. The total cost of the transplant center (for kidney, heart, and lung) = \$180
 - b. Kidney only center = \$50
 - c. Heart only center = \$90
 - d. Lung only center = \$40

4. A drug addiction epidemic has developed in Shan and Kachin States. Heroin and methamphetamine use have skyrocketed. Many poor people working in mines have been purposefully addicted to these drugs by the owners of the mines in order to decrease costs. - employers reduce costs by paying their employees in drugs instead of in Kyat and it makes the employees dependent on the employers. Dirty needles shared by addicts have led to a rapid rise in HIV infections causing a health crisis. Eradicating the drug problem completely is probably impossible. However, creating needle exchanges, rehabilitation centers, and job training centers have been highly effective in reducing HIV infections and in treating addiction.
 - a. Needle exchange program = \$50
 - b. Rehabilitation program = \$70
 - c. Job training center = \$40

5. Access to emergency medical treatment for rural people in Myanmar is almost non-existent. Rural people with treatable illnesses and injuries die in far greater numbers than their urban counterparts because they do not make it to a hospital in time. An internal governmental study has shown that the country needs to add 14 new helicopter ambulances in order to provide the services needed in rural areas.
 - a. Each helicopter costs \$40 - Total cost for 14 helicopters = \$560
 - i. Rakhine State needs 3
 - ii. Chin State needs 2
 - iii. Mon State needs 1
 - iv. Kayah State needs 1
 - v. Kachin State needs 2
 - vi. Shan State needs 3
 - vii. Sagaing Region needs 1
 - viii. Magwe Region needs 1

6. Flooding in central Myanmar has destroyed thousands of homes and farms. 60,000 people are affected by the floods and in need of food, clean water, and shelter. Fully provisioned IDP camps can house and feed 10,000 people each, so 6 IDP camps are needed. The United States has offered to provide 4 IDP camps but will only provide them if US soldiers are permitted to lease an island in the Mergui archipelago where they will build a small naval base to support their Pacific Fleet. China has also offered to pay for all 6 IDP camps in exchange for the right to build and operate a hydro-electric dam on a tributary of the Irrawaddy.
 - a. 6 IDP camps = \$600 (\$100 each)

Stepping for Minority Rights

*Developed in collaboration with Pyon Mon Aye, Aa Dawt, Ni Ni Win, Nyein Wai, Thazin Khaing Moe

Goals of this exercise

- Create a sense of empathy for vulnerable groups
- Develop greater understanding of how statelessness or citizenship status affects the realization of rights
- Develop greater understanding of how other forms of discrimination (such as gender-based discrimination or discrimination against minorities) can oftentimes compound the challenges that non-citizens face (intersectionality)

Explanation of exercise

This activity assigns particular roles (i.e. stateless, migrant worker, male citizen, female undocumented migrant worker, etc...) or identities to students. Students are asked a series of questions that they must answer based on their assigned role. Depending on their answers, they will either take a step forward or stay where they stand. The goal is for students to move from one end of a room to another. This activity also includes some discussion regarding the decisions that students make regarding which rights are affected, as well as what they have learned from the activity. The discussion questions are below.

Time: 60 minutes

Resources/Materials

To complete this activity, there needs to be enough space for students to line up next to each other and take several steps forward (10-15, depending on the number of questions you ask students).

You will also need a way for students to know what role they and others have been assigned. It will be important for the assigned role to be readily identified. You can do this by having each student hold up a piece of paper with his or her assigned role written on it. You may also want to have different colored paper for each role. You can also choose to identify each student's roles in other ways (hats, different color sashes, shirt colors, etc.)

Instructions/Steps

Step 1: Assign students one of the following roles. Depending on the size of the group, each student can have a different role, or some students can have the same role. If the class is very large, you can also decide to divide students up into groups, with each group representing one of the roles. Only one person from each group would be the group representative that actually takes steps (or not, depending on the question). However, the group as a whole would decide whether or not their representative should take a step or not.

Role Options for Small Group (the same role can be assigned to more than one person)

Male citizen

Female citizen

Minority citizen

Stateless person

Ethnic minority stateless person

Role Options for Large Group

Male citizen

Female citizen

Minority citizen

Stateless

Ethnic minority stateless person

Someone who works for the government

Refugee

Migrant worker from another region in Myanmar

Ethnic minority person with children who does not speak Myanmar

Ethnic minority person without children

Religious minority

Step 2: Line students up on one side of the room.

Step 3: Explain to students that they will be asked a series of questions and/or posed a series of scenarios and that they will be making decisions as though they were the person of their assigned role. The goal is to get to the other side of the room, taking steps forward each time they believe they are able to realize a particular right based on their assigned role or identity.

Optional instructions to read to students: Each of you has been assigned a role. You will be asked a series of questions. You decide if the answer to the question is “yes” or “no” based on whatever role you have been assigned. If you think the answer is “yes,” then you will take one step forward. If you think the answer is “no” then you will stay where you are.

Please note that there is not necessarily a right answer. Someone who has the same role as you may decide the answer is “yes” and you may decide the answer is “no.” That is OK and is part of the exercise.

Step 4: Read the questions/scenarios and have students take steps.

List of scenario questions

- You need to see a doctor in another part of the country who is a specialist
- You want to enroll your child in school
- You want a job working as low-paying informal construction worker
- You want a job as a government engineer
- You are the victim of a crime and want to go to the police to seek a remedy
- You want to participate in a job training by a refugee NGO
- You want to vote to elect the president of the country
- You want to help choose where in your community a well is going to be built.
- You want to celebrate a religious holiday
- You want to attend a community consultation meeting about the relocation of a camp for stateless persons
- You want to register birth of your child
- You want to join the armed services

- You want to visit to meet with your relatives lived in other city
- You want to travel to another country
- Others (*you may ask the class to identify other potential scenarios*)

Optional Step 5: You may want to ask students discussion questions after certain scenario questions. Alternatively, you can ask these questions at the very end during the re-cap/debriefing portion of the activity.

Questions you can ask after certain scenario questions

After each step, you may want to ask students (or groups) in certain roles to explain why they made the decision to step or not.

- Why did you not take a step forward?
- What conditions prevent you from realizing this right?
- Why do you think someone else in another role (*you can point to someone who did take a step forward*) was able to take a step forward, but you could not?
- What would need to change for this right to be realized?
- How did you feel about your role right now? How did you feel about other people with different roles right now? (*Note: you may want to ask this question mid-way through the activity and also once it is over.*)

If two people in the same role make different decisions, ask them why they made that decision. For example, if one person assigned the role of minority stateless person takes a step forward and another person who is also assigned the role of a minority stateless person stays where or she is.

Optional Step 6: Ask students discussion questions after certain scenario questions.

Discussion Questions/Questions to ask following the completion of the exercise:

- What rights are violated for each of these roles? (*Ask about each role in turn*)
- Please take a look around the room and notice which roles are standing where. Whose rights are violated the most? Why do you think that is? What factors contribute to these rights violations and challenges?
- Are there certain rights or privileges that you think only certain groups should have? Why or why not?
- How did you feel about your role? How did you feel when you could not take steps forward? How did you feel about other people with different roles? (*Note: you should ask students in different roles these questions.*)
- Have you thought about the rights of some of these groups before this exercise? Has this exercise changed how you think about the rights of people belonging to these groups? If yes, how?
- What policies, practices or laws could be changed in order to help ensure that everyone's rights are realized? That everyone makes it to the other side of the room? (*You can ask this question generally or with respect to particular rights.*)

Women's Rights: Identifying Direct and Indirect Discrimination and Substantive Equality

Goals of this exercise

- Develop a better understand the meaning of direct and indirect discrimination
- Explore how direct and indirect discrimination affects women's lives in Myanmar
- Examine possible solutions to direct and indirect discrimination

Note: This exercise can also be tailored to address discrimination issues against other populations, such as ethnic minorities or LGBT+ persons.

Explanation of exercise

In this activity, the instructor will briefly explain the meaning of direct and indirect discrimination and substantive equality. Students are then asked to identify examples of direct and indirect discrimination in Myanmar and develop 1-2 solutions to these forms of discrimination.

Resources/Materials

[Direct and Indirect Discrimination and Substantive Equality Lecture Notes](#)

Time: 45 minutes

Instructions/Steps

Step 1: Explain direct and indirect discrimination and substantive equality. Ask students if they have any questions. It is important they understand these concepts before moving on to the next step.

Step 2: Break students into small groups of 3-6

Step 3: Ask students to discuss the following questions in small groups.

- 1) What is an example of direct discrimination against women that you have either experienced or observed?
 - a) What individuals are contributing to this discrimination?
 - b) Who is in a position to prevent or address this discrimination?
 - c) Who is affected by this discrimination?
 - d) What are some of the primary and secondary consequences of this discrimination?
- 2) What is an example of indirect discrimination against women you have experienced or observed?
 - a) What individuals are contributing to this discrimination?
 - b) Who is in a position to prevent or address this discrimination?
 - c) Who is affected by this discrimination?
 - d) What are some of the primary and secondary consequences of this discrimination?
- 3) What are some steps that can be taken to address the example of direct discrimination you identified as a group (try to be as concrete as possible).
- 4) What are some steps that can be taken to address the example of indirect discrimination you identified as a group?

Step 4: Feedback/Discussion

Ask students to report back on what they discussed.

Possible discussion questions include:

- Question for the group:
 - *What is the example you identified?*
- Questions for the small group or the entire class?
 - *What individuals are contributing to this discrimination?*
 - *Who is in a position to prevent or address this discrimination?*
 - *Who is affected by this discrimination?*
 - *What are some of the primary and secondary consequences of this discrimination?*
 - *What are some possible solutions?*
 - *Do other groups face similar forms of discrimination? What has been done to address discrimination in those instances? Could those same strategies or actions be applied in this example?*

Direct and Indirect Discrimination and Substantive Equality Lecture Notes

Discrimination

Discrimination is “treatment or consideration of, or making a distinction in favor of or against, a person or thing based on the group, class, or category to which that person or thing belongs rather than on individual merit.” Discrimination can take the form of direct discrimination and indirect discrimination.

Direct discrimination

Direct discrimination is when someone is treated differently or worse because of group, class or category. In other words, because you are a woman, or of a particular ethnicity, or because you have a disability. An example of direct discrimination would be a law that states “women may not participate in job-skills trainings” or one that states “only men may vote in parliamentary elections.” Can you think of some examples of laws or policies that are direct forms of discrimination?

For example, Chapter VII, Article 8 of the Myanmar Constitution says:

“The State shall, in appointing or assigning duties, not discriminate against or in favour of any citizen with qualifications set for posts or duties based on race, birth, religion, and sex.”

However, nothing in this section shall prevent appointment of men to the positions that are naturally suitable for men only.

Discussion question for the class: Do you think this is discriminatory? Who gets to decide what is naturally suitable for men? Is the decision most likely to be made by men? Or do women get to participate equally in the decision-making process?

Indirect discrimination

Indirect discrimination is when there is a practice, policy, or law in place which applies to everyone in the same way, but it has a worse effect on some people than others.

To explain indirect discrimination, we’re going to look at another example:

A non-governmental organization (NGO) decides it wants to provide skills training to people in one village so that those who complete the training can get better-paying jobs. They set up a training center that offers courses on Friday mornings.

In this same village, women are generally the ones who sell goods in the market. The market is open on Friday mornings, which makes it very difficult for women to attend the class. As a result, they are less competitive for jobs than the men who were able to attend.

Now, the NGO did not directly discriminate. It did not say that only men could participate. But, it did indirectly discriminate against women. The gender norm in this community that that women are generally responsible for selling goods at the market is not necessarily problematic. However, the failure to take into consideration this gender norm led to indirect discrimination. Indirect discrimination is just as problematic as direct discrimination.

Sometimes, it is OK to implement policies or practices that may affect two groups differently. For example, it is OK to impose certain requirements that are necessary for a job, so long as they are truly necessary for the job and are not intended to exclude a particular protected class of persons (distinctions based solely on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status) For example, it is OK to require that anyone applying to be a firefighter can carry the weight of a ladder (let's say 25 kilos). It is not OK to require all firefighters to carry 50 kilos if it's not necessary for the job, simply as a means of excluding women from the job.

Substantive equality

Indirect discrimination also relates to the concept of substantive equality. This concept refers to the fact that sometimes, treating people the same way does not always lead to equal outcomes or real equality - substantive equality.

Policies, laws and behaviors must take into consideration the specific needs of certain groups of people. Gender analysis helps ensure substantive equality for men and women.

The following fable is a good example of what we mean by substantive equality. Sometimes, treating people the same way does not always lead to equal outcomes or substantive equality.



Once upon a time there was a stork and a fox. The fox invited the stork to its house for dinner. Food was served in a dish, so the stork with its long beak could not eat it. The following day, the stork invited the fox to its house for dinner. Food was served in a long vase, so the fox with its short tongue could not eat it. The tongue of the fox and the beak of the stork, which are both used for eating but have different shapes and require different methods, represent different needs of people. The story illustrates that sometimes even when equal opportunity is made available (the food is served to both), the outcome may not necessarily be just and fair or equitable (each animal's method of eating is not suitable for the other). Specific equity measures are therefore necessary to achieving equality.

Positive Discrimination: Special Measures or Affirmative Action - When is it OK to treat individuals differently?

Sometimes it is necessary to treat certain groups differently in order to address historic discrimination.

Under CEDAW, states agree to take special measures to achieve de facto equality between men and women (Article 4). An example of a special measure could be a quota.

CEDAW Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Special measures are those taken by a government in order to ensure substantive equality with respect to the realization of human rights. Special measures are also often referred to as 'affirmative action' measures.

Special measures should be temporary and removed once equality is achieved. For example, a quota system requiring employers to hire more women to address gender disparity in a particular sector may be used until the workforce more accurately reflects the population. Once the stated goal is achieved (and maintained), the special measure may be removed.

Source for substantive equality fable: CEDAW Briefing Kit. United Nations Development Fund for Women, pg. 4, citing the Gender Awareness Handbook by Gender and Development for Cambodia, GADC

Developing an Environmental Rights Treaty

Goals of this exercise

- Promote critical reflection on what environmental rights should entail and which specific rights should be acknowledged by a treaty on environmental rights
- Consider how rights should be articulated and translated into treaty text or legislation

Explanation of exercise

In this activity, students will develop their own treaty on environmental rights.

Resources/Materials

Large pieces of paper for students to write articles on

Optional: You can also have students write/type out treaties and make copies to be distributed to the rest of the class.

Time: - 30-75 minutes total

- 15-45 minutes of preparation
- 5-15 minutes for each group to present and discuss treaty
- 10-15 of debriefing

Instructions/Steps

Step 1: Ask students to review the information on human rights and the environment on the [OHCHR website](#).

Step 2: Divide students into groups of 3-5. Ask them to draft a treaty on human rights and the environment. Advise them that they should consider what this right entails and what specific obligations states should have and what remedies should be available to individuals and groups.

Step 3: Ask students to present their treaties.

Note: You may only want to ask 2-3 groups to present the entirety of their treaty.

Step 4: Debrief/Discussion. Potential discussion questions for students include:

- *Were there any articles that you included that were not already discussed? (if only a few groups present)*
- *Did you consider including some of the provisions another group discussed, but then decide against inclusion for particular reasons?*
- *What articles did you debate the most within your group and why?*
- *What articles do you think will be the most difficult to enforce?*
- *What articles did other groups identify that you wish you had included in your treaty?*
-

Optional Step 5: Give students the opportunity to revise their treaty based on the discussion.

Note: This activity was developed in collaboration with: Kyi Phyu Oo, Yu Mon Cho, Yupar Nyi Htun, Thet Oo Zan, Kaythi Win

Developing a Human Rights Plan of Action

Goals of this exercise

- Identify relevant human rights issues
- Identify and analyze relevant actors and contextual factors that contribute to rights violations
- Develop response mechanism/plan of action based on an analysis of the context (actor motivations and capacities, available resources, etc.)

Explanation of exercise

In this exercise, students will be assigned different roles in a given human rights situation. Students will analyze the situation and develop a response based on the role they have been assigned.

Resources/Materials

[Developing a Human Rights Plan of Action Fact Pattern Handout](#)
[Situational Analysis and Developing a Human Rights Plan of Action Worksheet](#)

Time: 2-3 hours

Instructions/Steps

Step 1: Distribute the [Fact Pattern Handout](#) and assign roles to students/groups of students in advance. Then, discuss the fact pattern and answer any questions about the situation in class.

Note: You can also use the fact-pattern from the exercise called [Applying International Human Rights Law to a Fact Pattern: Situational Analysis](#). You would then need to assign different roles.

Step 2: Complete page 1 of the [Situational Analysis and Developing a Human Rights Plan of Action Worksheet](#). Identify and discuss relevant rights issues/violations, actors, contextual factors that are contributing to the problem, and gaps information.

Note: This can be completed in small groups or the entire class together.

Step 3: Explain to students that they will be working in small groups to develop possible plans of action that can be taken to address the human rights situation. They will do this by completing the remaining pages of the worksheet.

In filling out this worksheet, students will identify: (1) actors who can influence the human rights situation (advocacy targets), (2) what actions they want their advocacy targets to take, and (3) strategies for convincing their advocacy target to take action. They will also analyze potential allies and opponents and the skills and resources needed to carry out their plan. Finally, they will assess the strengths and weaknesses of their strategy.

Explain to students that they will present their strategy to the rest of the class.

Step 4: Review with students some general types of action that they might take in order to address a human rights situation. Ask them to give suggestions and then provide other examples if they are not identified by students.

- Draft legislation
- Protests
- Sit-ins
- Boycotts
- Lobbying
- Report preparation
- Letter-writing
- Twitter/social media campaigns
- Civil disobedience
- Amicus briefs
- Public information campaigns - radio, theater
- Targeted training/capacity-building
- Strategic legislation
- Research
- Direct service provision
- Leveraging International/National Media/Op-eds
- UN Mechanisms (Treaty/UPR/Special Rapporteurs): testimony/shadow reporting
- Calling for consultations between government and community members
- Going to the Human Rights Commission

Step 5: Feedback/discussion after each group - Ask students to provide feedback after each group presents. Questions students may want to consider when providing feedback include:

- *What questions do you have about the plan? Is it clear?*
- *What are some key questions that the group may want to consider?*
- *Were there other possible allies or opponents they may want to consider?*
- *Is the plan feasible? Why or why not? Are there other strategies for convincing the target to take action that might be more impactful?*
- *What are the strengths of the plan? What are potential weaknesses?*

Step 6: Group discussion at the end of the activity

- *What strategies overall do you think would be most effective and why?*
- *What were some of the advantages and disadvantages of that the various “roles”/actors had?*
- *Other questions/observations?*

Developing a Human Rights Plan of Action Fact Pattern Handout

In a Northern part of Country **A**, an international mining company (**IMC**) negotiated a 10-year lease with the national government for the rights to the mineral resources found within a 100 square mile section of land (everything within the square box on the map). The IMC mining company has begun operations in two zones (1 and 2) within its lease area and is looking to open new mines.

Zone 1 is at the top of River R and an international NGO, called Human Rights and the Environment, has accused the mining company of contaminating the river through its mining practices. They are concerned that pollution from the mine is contaminating the river, introducing toxins into the food and water supply and making the local population sick, killing fish, and endangering the survival of rare animal species.

Zone 2 was formerly used by local rice farmers. The farmers were not a part of the negotiations between the IMC mining company and the government of country A. They have been removed from their land with very small compensation and were moved into an apartment building complex built by IMC in Town T.

After conducting a survey, the mining company has identified another location within their lease, Zone 3, where it believes it can build profitable mines. Zone 3 is land traditionally used for hunting by a local indigenous group. As they did in zones 1 and 2, the mining company wants to clear 5 sq. miles in Zone 3 so that they can create pit mines by using heavy machinery made by Multinational Corporation **C**.

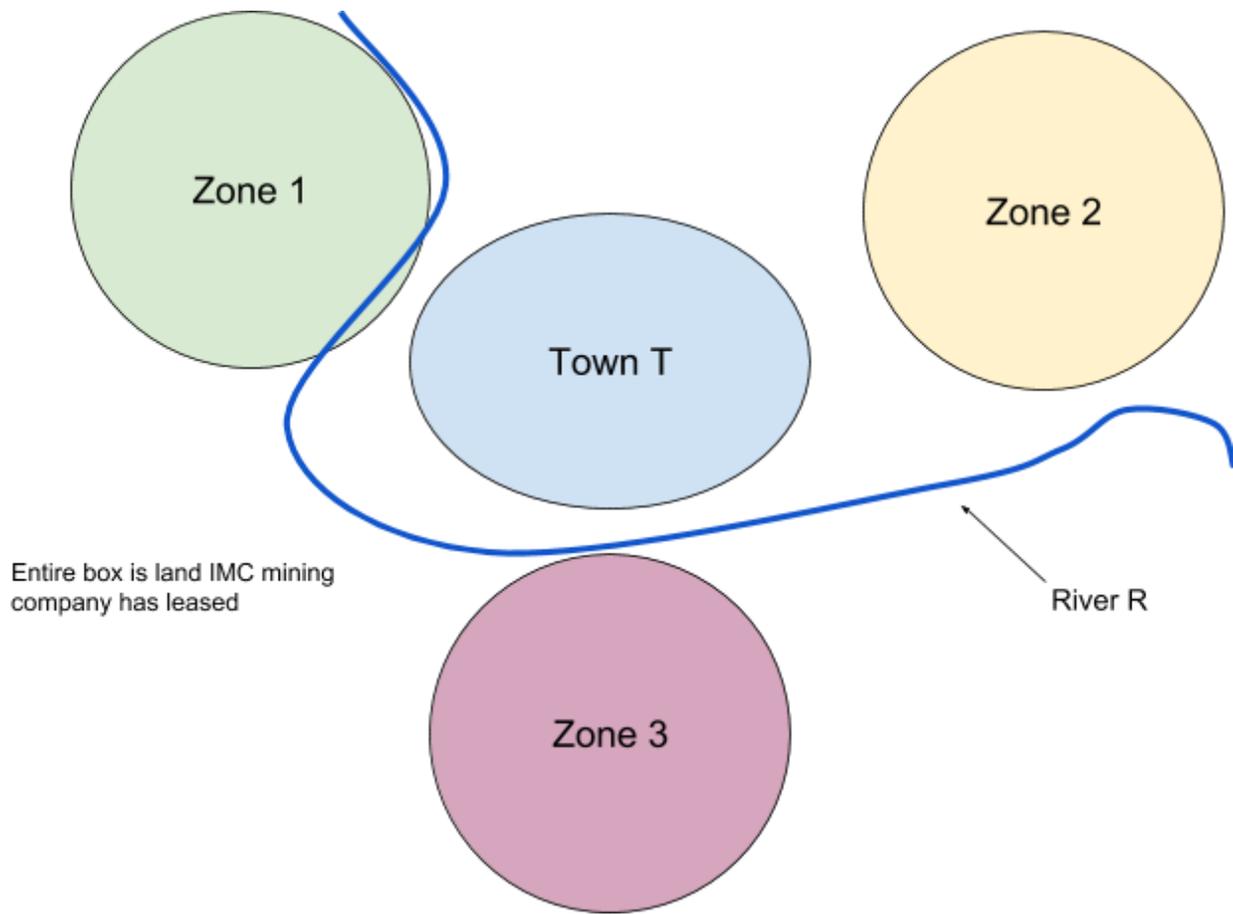
Town T is centrally located in between Zones 1, 2, and 3. Many miners live in the town and commute to the other zones for work.

The IMC mining company has hired 40 trained personnel from their headquarters in country **D** to work in Zones 1 and 2. These personnel (and their families) require housing, schooling, and other services. The mining company also plans to hire more trained personnel from Country D to work in Zone 3. All high paying, skilled jobs go to workers from Country D. The mine company offers only low paying and dangerous jobs to locals (all residents of country A).

There is also a security force used by IMC that protects the mine. These security forces have been accused of harassing local women and incidents of sexual violence have been reported. The mayor of Town T has asked women to remain indoors after dark, and many local men are now prohibiting their wives and daughters from travelling unaccompanied.

Local teachers have left their jobs to make more money at a government-subsidized school built to accommodate the children from Country D whose parents work for IMC. Most local families cannot afford to pay the school fees at the new school. Food prices have also skyrocketed due to the decline in farming and fishing.

Country **A** has ratified the ICCPR, the ICESCR, CRC and CEDAW. It has also signed the UN Declaration on the Rights of Indigenous Peoples. It has a national human rights commission, as well as a national court system, although the effectiveness of both can be limited at times. There is a regional court that has jurisdiction over Zones 1, 2, and the town. There is also an informal governance structure that operates within Zone 3 to which indigenous groups generally turn to resolve local matters, but they can also bring complaints and concerns to the national human rights commission and through the national court system.



Groups/Actors

Group 1 - Is an international NGO focused on Human Rights and the Environment.

Group 2 - Is a collection of farmers who have lost their land to the mining company.

Group 3 - Is an indigenous group that lives primarily in Zone 3.

Group 4 - Is a local human rights NGO that focuses on women's issues, but not exclusively.

Group 5 - UN special rapporteur for country A.

Situational Analysis and Developing a Human Rights Plan of Action Worksheet

What are the relevant rights issues/violations?

Who are the relevant actors?

Victims (direct and indirect)

Responsible parties (direct perpetrators or others who can influence the situation)

Stakeholders/Other relevant actors

What are the relevant contextual issues that contribute to the problem or significantly influence the situation (normative, cultural, political, economic, social, legal, institutional etc.)?

Are there any gaps in information? Things you would want to know more about? Are there certain assumptions that you are making about the situation as you develop your plan of action?

What is your desired change? What factor(s), if changed, could have the greatest positive impact on the situation? (Economic, political, policy, cultural, institutional, social, legal etc.)

Who is in a position to effect the desired change? Who will be the target of your action plan?

What do you want the target to do? What is your primary “ask”?

Proposed Action - What can you do in order to get the target to take the desired action? How do you think the proposed action will get your target to do what you want?

Who are your potential allies? How can you collaborate?

Who are potential opponents? How can you mitigate the risks or opposition of these actors?

What resources/skills are needed to carry out your proposed action? Do you have those resources or can you obtain them?

What other factors could influence the potential success of your plan of action?

What are the primary strengths and weaknesses of your proposed plan of action?

What are potential drawbacks, risks, or unforeseen consequences? How can they be mitigated? What contingency plans can you make?

Why did you select your plan over the other potential actions you identified? What is your second best option?

Advocacy Meeting: Role Play

Goals of this exercise

- Strengthen advocacy skills (See also Developing a Plan of Action Activity)
- Strengthen the ability to identify key advocacy goals and tailor messaging according to the audience
- Enhance verbal advocacy skills

Explanation of exercise

In this role play activity, students will develop a brief advocacy strategy and will practice a 2-5 minute advocacy meeting (depending on available time) with a key advocacy target.

Note: The target described is the UN Special Rapporteur, but you can also give students the option of picking their own advocacy target. (For example, a CEO of a Development Corporation, an MP, an international donor, or a potential advocacy ally, etc.)

Time: Varies depending on number of students and time allotted for role playing. However, make sure to leave time for feedback and debriefing.

Resources/Materials

Someone to role play the advocacy target. Note: you need to decide if you as the instructor will play the advocacy target or if you would like to select 1-2 students to play the role. If students are allowed to select their own advocacy target, then you should ask them to provide certain information in advance:

- Who they are/what issue they are addressing:
- What their “ask” is
- Who their advocacy target is

Instructions/Steps

Step 1: Explain to students that they will be developing a 2-5 minute advocacy pitch for a key advocacy target. Questions they will need to consider when developing this pitch include: (*Note:* you may not necessarily want to address these issues in order)

- Who are you? Are you representing just yourself? An organization?
- Who is the target?
- What is the problem? What do you want them to understand about your issue?
- Why is it important or timely?
- What is the objective? What do you want them to do? What is your ask?
- How can you capture their interest? How can you engage them in this issue?

Step 2: Have students take turns practicing their advocacy meeting. Make sure to time them.

Step 3: De-briefing.

- *What was effective? Why?*
- *What seemed less effective? What would you have done differently? Why?*
- *What recommendations do you have?*

- *Did the advocacy target have any reactions you found surprising?*

Step 4: General Class Discussion.

In general, what did you learn from this activity? What seemed to work well? What do you think are some general “do’s” and “don’ts” of advocacy meetings?

Human Rights Slogan Exercise

Goals of this exercise

- Develop greater understanding of advocacy strategy planning
- Enhance analysis skills and consider interests/viewpoints of various actors/stakeholders
- Develop creative thinking skills in order to craft advocacy messages that garner attention

Explanation of exercise

In this exercise, students will work in small teams or individually to design a human rights slogan. The slogan can either be based on the [fact pattern](#) used during the [Developing a Human Rights Plan of Action](#) activity or can be based on a different human rights situation addressed in class.

Resources/Materials

[Advocacy Slogan Worksheet](#)

Time: 30-60 minutes, depending on whether students develop the slogan in class or at home.

Instructions/Steps

Step 1: Explain exercise to students and review the exercise worksheet they will be completing. Answer any questions they might have.

Step 2: Give students time to prepare the advocacy slogan (if doing this part in class).

Note: The amount of time needed will depend on whether they are developing a slogan based on a situation they have already analyzed or a new scenario/human rights situation.

Step 3: Have students take turns presenting their slogan. They should explain their project goal, the target audience, the intended outcome, and potential responses. They should then share their slogan with the class.

Step 4: Group discussion and feedback regarding each slogan.

Group discussion questions

- *Do you think the slogan would be effective? Why? Why not?*
- *Is it concise?*
- *Is it clear?*
 - *Is the problem or issue clear?*
 - *Is the desired action clear?*
- *Does the slogan create a connection to the human rights issue in the audience's mind?*
- *Is it rights-based/rights-friendly (does it avoid perpetuating stereotypes or discrimination?)*
- *Is it memorable/identifiable/recognizable?*
- *Other questions/suggestions/comments?*

- *Could the slogan be modified or adapted by opponents and used against you? Could it backfire in any way?*

Optional Step 5: Group vote on the best slogan (groups cannot vote for their own slogan).

Advocacy Slogan Worksheet

What is the human rights issue/problem you are trying to address or change?

Who is your target audience?

What is your intended outcome? What do you hope to achieve through the slogan? What change or action with respect to the target audience do you wish to accomplish?

What is your slogan?

Other considerations when developing your slogan:

Who is your opposition? What are their potential responses? Can your slogan be used against you?

What makes your message credible and compelling?

Is it concise? - (generally a few words or a sentence)

Is it clear?

- Is the problem or issue clear?
- Is the desired action clear?

Does the slogan create a connection to the human rights issue in the audience's mind?

Is it rights-based/rights-friendly (does it avoid perpetuating stereotypes or discrimination?)

Is it memorable/identifiable/recognizable?

Does it translate easily and effectively between languages/dialects (may or may not be a relevant consideration)?

Research Scavenger Hunt

Goals of this exercise

- Develop stronger online research skills
- Develop greater familiarity with various reliable sources of information on human rights
- Develop the ability to more readily identify key search terms

Explanation of Exercise

In this exercise, students will develop online research skills by answering various questions.

Note: Students are also encouraged to meet with the librarian, as they are trained in human rights research and can provide information on how to use various search engines and databases.

Resources/Materials

Access to internet via smartphone or laptop

[Human Rights Research Scavenger Hunt Powerpoint Presentation](#)

[Research Scavenger Hunt Worksheet](#)

[Scavenger Hunt Research Guide](#)

Time: 30-60 minutes

Instructions/Steps

Step 1: Divide students into teams. Explain that they will be trying to find answers to various questions by conducting online searches on their phones/laptops. They will also be asked to explain how they found the answer.

Optional: You can make this into a game by awarding one point to the team that finds a correct answer first. The team with the most points at the end wins.

Step 2: Ask the questions and give students enough time such that most have found an answer to the question.

Note: Potential topics for thematic questions include the following (this list is not exhaustive):

- Freedom of Expression
- Children's Rights
- Women's Rights
- Minority Rights
- Development and Rights

Step 3: Ask them to explain how they found the answer. In the exercise worksheet, you will also find notes on one approach for finding the answer.

Research Scavenger Hunt Worksheet

Name a country that participated in the Universal Periodic Review process in 2015 other than Myanmar.

Name a country that objected to Myanmar's reservations attached to the CRC. Do you think that the reservation is against the object and purpose of the treaty?

Find an online human rights petition you can digitally sign. What is it?

Find a scholarly article about the following human rights issue: _____ (Note: instructor selects human rights issue based on class session.)

Find an NGO (local or international) that is working on the following human rights issue: _____ (Note: instructor selects human rights issue based on class session.)

Find an NGO report that addresses the following human rights issue: _____ (Note: instructor selects human rights issue based on class session.)

Find a government report that addresses the _____ (Note: instructor selects human rights issue based on class session.)

What actions must the state take to give effect to Article 16 (2) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families?

When was the last special rapporteur comment released and when was the government's response? What was the issue?

What is the date of the latest official publication/submission related to Myanmar's UPR process?

Additional Research Questions

- Find a politician that has mentioned human rights in the last month.
- What was the most recent human rights treaty or declaration to be ratified by Myanmar.
- Name two High Commissioners who have lead the Office of the High Commissioner for Human Rights (OHCHR).
- From what country is the current Special Rapporteur on the situation of human rights in Myanmar?
- Find a website that mentions human rights education activities.

Scavenger Hunt Research Guide

This guide is intended to provide information about how you might find an answer to the questions below. Please note that there are many ways to find this information online and there is not always one correct answer. Please also note that some of the links below may become outdated over time.

Name a country that participated in the Universal Periodic Review process in 2015 other than Myanmar.

Since the question asks specifically for countries in the 2015 UPR Process, a search online can help you find this. For example, if you search “2015 UPR Process” on Google, the top entry leads you to the OHCHR website.

Name a country that objected to Myanmar’s reservations attached to the CRC. *Do you think that the reservation is against the object and purpose of the treaty?*

You may find Myanmar’s reservations here: http://www.bayefsky.com/html/myanmar_t2_crc.php
Possible answers: Germany, Ireland, Portugal

Find an online human rights petition you can digitally sign. What is it?

Many human rights organizations have their own digital online petitions.

- Amnesty International: <https://www.amnesty.org/>
- Human Rights Watch: <http://www.hrw.org>

There are also petition sites with HR and non-HR petitions.

- Change.org: <http://www.change.org>
- Examples from Amnesty International

Find a scholarly article about the following human rights issue: _____ (Note: instructor selects human rights issue based on class session. Please see activity instructions for a list of potential topics.)

First, understand different search engines available for different media. Searching for a blog or website is different from searching for a scholarly article. Where would you go?

- Some examples are: JSTOR, Westlaw, Nexis, ProQuest
Many of these are available for free at law departments through EIFL’s Myanmar e-Library project.
- If you type “freedom of expression Myanmar” you will find articles related to such.
- However, make sure that they are scholarly. Check the box for scholarly or peer reviewed. If you don’t, you might get news articles—but what makes an article academic is that it is peer reviewed and written for an academic audience.

Find an NGO (local or international) that is working on the following human rights issue:

_____ (Note: instructor selects human rights issue based on class session. Please see activity instructions for a list of potential topics.)

Method 1. NGOs/INGOs are vast and endless. Therefore they can be challenging to search for. You want to narrow down your search based on keywords.

Examples of some keywords to search by:

- Area of issue (women’s rights)
- Type of NGO (local NGO/international NGO)
- Location (country? state? city?)

- Example: Women's rights INGO in Myanmar (country)
- Example: Women's rights INGO in Karen State (state/division/province)
- Example: Women's rights local NGO in Hpa-An Karen State Myanmar

Method 2. Another method is to look at websites that maintain information on other organizations

- Myanmar Information Management Unit (MIMU): <http://www.themimu.info/>
- Local Resource Center Myanmar: <https://www.lrcmyanmar.org/>

And to consider working groups in terms of topic.

- Example: Food Security Working Group in Myanmar
<https://www.facebook.com/myanmarfswg/>

Find an NGO report that addresses the following human rights issue _____.

Method 1. Familiarize yourself with NGOs based on area of research

- Example: Global Fund for Women as Women's Rights NGO
- Example: Save the Children as Children's Rights NGO
- Example: Amnesty International as NGO for Freedom of Expression

From there, you can narrow your search on NGO reports.

Method 2. A broader way of searching is by subject area and including NGO report.

- Example: Women's Rights NGO Report

On a Google Search, this website shows up: Women for Women International:

<http://www.womenforwomen.org/about-us/annual-reports>

Find a government report that addresses the following human rights issue _____.

Method 1. Search based on subject keyword first, then find reports on a general search.

- Example: "British Government Women's Rights Report"

NOTE: All government websites will have their own website address extension. Depending on the country, the website address extension (also known as URL or domain name) will be different.

You can find a list of country website extensions at <http://countrydomains.com/>.

- Myanmar example: <http://www.mofa.gov.mm/>
- UK Example: <http://www.gov.uk/>
- Thailand Example: <http://www.thaigov.go.th/en.html>

Method 2. Search based on government website first, then look up keywords on government websites. (longer/less reliable/not all in English). This method can be more difficult and time consuming since every website is designed differently.

- Example: Go on UK government website, then search for report.

What actions must the state take to give effect to Article 16 (2) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families?

General Comment no. 2 on the rights of migrant workers in an irregular situation and members of their families states:

This obligation requires States parties to:

- (a) Adopt and implement legislation prohibiting such acts;
- (b) Effectively investigate cases of abuse and violence;
- (c) Prosecute and punish those responsible with appropriate punishments;
- (d) Provide adequate reparation to victims and members of their families;

- (e) Provide human rights training for public officials; and
- (f) Effectively monitor the conduct of State agents, and regulate that of private persons and entities, with a view to preventing such acts.”

When was the last special rapporteur comment released and when was the government’s response? What was the issue?

From the OHCHR website, you can search latest reports under “Latest News.”

What is the date of the latest official publication/submission related to Myanmar’s UPR process?

Reports on the Universal Periodic Review can be found on the OHCHR website. However, if you don’t know the website address, you can find it through a Google Search.

- <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Highlights6Nov2015am.aspx>

From the OHCHR website, you can find a link to the report in PDF format.

- <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MMSession23.aspx>
- <http://daccess-ods.un.org/TMP/5616909.86156464.html>

Note: Scavenger Hunt Research Guide was created with the support of Mary Thuy Pham.

Take a Stand

Goals of this exercise

- Examine and question opinions on relevant human rights laws, issues or policies
- Engage in respectful, informed discussion/debate with other learners

Explanation of exercise

In this exercise, students stand along a line in the room to express the extent to which they agree or disagree with a particular human rights statement. This can also be modified so students are expressing the extent to which they oppose or support a particular law or policy.

Resources/Materials

Signs indicating strongly agree or strongly disagree

Tape

Optional: You can also indicate verbally which side of the room represents which opinion, and that there is a hypothetical line across the room

Time: 15-30 minutes

Instructions/Steps

Step 1: Set-up. Put a piece of tape on the floor from one end of the room to another. (You can also ask students to envision a line going from one side of the room to another). Designate one side of the room for those who strongly agree and the opposite side of the room for those who disagree.

Step 2: Explain to students that this exercise will ask them to articulate their opinion on a statement or human rights policy/issue. They should stand on one side of the room if they strongly disagree with a policy and on the opposite side of the room if they strongly agree. Alternatively, one side of the room can be designated for students who believe that a certain policy is always acceptable and on the other side can be designate for those who think it is never acceptable. You may also decide to give students the option to stand somewhere along the line between the two sides of the room to express more ambivalent opinions.

Optional: You can let students know what the statement will be in advance and ask them to research their opinion prior to the exercise.

Step 3: Read the statement or policy out loud and have students go to their position along the line.

Possible statements could include:

- Torture is never acceptable
- Torture is acceptable when national security is at stake
- Every individual has the right to water
- All human rights are equally important
- Freedom of expression is highly respected in this country

Step 4: Ask students representing different positions to explain why they selected the position that they did. Encourage students to provide evidence for their statements, including specific international human rights treaties where relevant.

Note: As an instructor, provide additional information and context as needed. For example, with questions of torture, instructors should discuss the Convention Against Torture and the fact that it prohibits torture in all instances. (It doesn't matter if one holds the opinion that torture should be allowed in certain circumstances, the law is unequivocal in prohibiting torture no matter the situation!)

Step 5: Give students the opportunity to change where they are standing along the line. If some students changed position, ask them to explain why.

For additional versions of this activity, please see [Barometer: Taking a Stand on Controversial Issues. Developed by Facing History and Ourselves.](#)

Human Rights Charades: Energizer

Goals of this exercise

- Generate excitement and fun in the classroom
- Establish familiarity and community in the classroom
- Promote active participation in the learning process

Explanation of exercise

This activity can be used as an energizer or warm-up. Students act out certain rights and other students try to determine what right is being represented.

Time: Varies (3-4 minutes per right)

Instructions/Steps

Step 1: Assign a right to a student or group of students. You can select any number of rights, but some examples include:

- Right to play
- Right to marry whomever you choose
- Right to education
- Right to trial/innocent until proven guilty
- Right to participate in democratic elections
- Access to information

Step 2: Explain to students that the individual or group will be acting out the right they have been assigned. They cannot speak when acting out the right. The rest of the class will then try to identify the right being portrayed.

Optional: You may want to time how long it takes for the class to correctly guess the right that is being portrayed. The team that needs the shortest amount of time for the rest of the class to correctly guess the right is the winner.

Human Rights Squares

Goals of this exercise

- Generate excitement and fun in the classroom
- Establish a strong community in the classroom
- Promote active participation
- Get a sense of students' familiarity with human rights issues

Explanation of exercise

This exercise is good to use as an energizer or warm-up activity. It does not require students to know anything about human rights, but can help you get a sense of their current knowledge of human rights issues. You can also edit this worksheet so that it focuses on more local issues/questions.

Time: 15-20 minutes

Resources/Materials

[Human Rights Squares Worksheet](#)

Instructions/Steps

Step 1: Explain to students that the goal of this exercise is to complete all the squares by asking fellow students to identify an answer or example for each of the squares in the worksheet. Each answer should come from a different person.

Step 2: Ask students to share examples of the answers they found with the entire group. Alternatively, you can break students into groups of 2-3 people and ask them to share their answers with each other.

Human Rights Squares Worksheet

A local organization that fights for human rights	Recent rights issue or violation discussed in the news	Document that proclaims human rights	Government institution or agency that works for human rights	Country where people are denied rights because of their race or ethnicity
An international organization which fights for human rights	Film/Video that is about rights	Singer who sings about rights	Right you have that your parents did not	Country where human rights situation has improved recently
Type of human rights violation that most disturbs you	Book about rights	Right sometimes denied to women	Right all children should have	Country where people are denied rights because of their religion
Human right not yet achieved by everyone in this country	People denied right to establish their own nation or homeland	Human right being achieved around the world	Right of yours that is respected	Someone who is a defender of human rights

Source: Adapted from David Shiman, *Teaching Human Rights*, (Denver: Center for Teaching International Relations Publications, University of Denver, 1993) 2-3. Retrieved from Human Rights Here and Now at <http://www1.umn.edu/humanrts/edumat/hreduseries/hereandnow/Part-3/Activity4.htm>

Human Rights Game Show

Goals of the exercise

- Refresh students' knowledge of some of the material covered in class
- Determine what students learned from earlier course sessions
- "Energize" students

Explanation of exercise

You can use this as a fun refresher activity to energize students and assess what students have retained from previous course sessions.

Time: 45-60 minutes

Resources/Materials

[Human Rights Game Show Powerpoint Presentation](#)

[Human Rights Law Game Show Facilitator Guide](#)

Instructions/Steps

Step 1: Divide students into teams (3-5 per group, but it depends on class size).

Step 2: Explain to students that they will be answering questions to win points. Each correct answer earns one point. The group with the most points at the end wins the game. Students should raise their hand to answer and the instructor will determine which student/group raised their hand first. If the first team does not answer correctly, the team who raised a hand second fastest can be given a chance to respond.

Step 3: If no one knows the answer, then students can be given a chance to try to find the answer using their cell phones. The first team to find the answer should raise their hand.

Human Rights Game Show Facilitator Guide

Questions & Answers

Name two differences between the Human Rights Council and the Human Rights Committee?

- The Human Rights Committee is a treaty-based body created by the ICCPR that is comprised of independent experts. It examines the record of states party to the ICCPR.
- The Human Rights Council examines the human rights record of all UN member states and is comprised of state representatives.

What is progressive realization? Bonus: What treaty introduced this concept?

- A concept that recognizes that certain human rights cannot be fully realized instantaneously, while simultaneously obliging states to make continuous progress towards the improving the realization of rights (ICESCR)

What is the difference between a refugee and an internally displaced person?

- A refugee is someone who has left their home country because of persecution on account of race, religion, nationality or political opinion. An internally displaced person may be displaced from their home for the same reasons, but has not crossed the border of their home country.

Name at least three human rights principles.

- Participation
- Equality
- Non-discrimination
- Transparency
- Accountability

Name a pre-1945 human rights movement

- Democratic Movement – 18th century
 - Example: Declaration of Rights of Man and Citizen (France, 1789), US Declaration of Independence (1776) and Bill of Rights (1789)
- Anti-slavery Movement – 18th - early 20th century
 - Abolition of the Slave Trade Act in England in 1807
- Suffragette Movement (Women's right to vote) – 18th and 19th centuries
- Trade Union/Labor Rights Movement – 19th & 20th c.
- Humane Warfare Movement – 19th & 20th centuries
 - Development of International Humanitarian Law
 - ICRC (Red Cross) founded in 1863
- Self-determination & Anti-colonialism Movement

What is jus cogens?

- Jus cogens is Latin for "compelling law." It is a peremptory norm of international law that applies to everyone, including persistent objectors. Violations of jus cogens norms generally give rise to erga omnes obligations, meaning all members of the international community have standing to complain.

Bonus question: Give an example of jus cogens

- Prohibition of genocide, torture, slavery, forced disappearance and capital punishment for juveniles.

What two elements must be established to argue that a rule has the weight of customary international law?

- Element 1: State Practice
- Element 2: Opinio Juris

What is a General Comment?

- The interpretation of treaty provisions and thematic discussions related to the treaty. General Comments are issued by a treaty committee body.

What is the Universal Periodic Review process?

- A process whereby the Human Rights Council reviews the human rights record of all UN member states.

A man is physically abusing his wife within his own home. The government has a responsibility to take action to prevent the abuse under CEDAW. True or false?

- True

Bonus question: Based on what Article of CEDAW?

- Governments must eliminate discrimination against women in both private and public spheres (Articles 2(e) and 2(f), and Article 5). While the treaty does not explicitly condemn violence against women (VAW), the interpretation of the treaty has treated VAW as a form of discrimination. The state has an obligation to take action to address VAW even when it is committed within private spheres by non-state actors. (See General Recommendation 19.)

What are the elements of torture?

- CAT Article 1: For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Can you name a group of people that is considered stateless?

- Possible answers include: the Bidun (Kuwait); Nubians (Kenya); the Roma (Europe), Rohingya (Myanmar)

Can you identify a human rights issue that may be of particular concern to indigenous peoples?

- Possible answers: Self-determination, land rights, non-discrimination, education

Can you identify a human rights issue that may be of particular importance to members of the LGBTQIA community?

- Possible answers: Marriage/family, privacy, work, access to healthcare, non-discrimination, freedom of expression

General Discussion Questions

Goals of the exercise

- Develop facilitation skills
- Develop greater capacity to engage in critical discussion with others and identify probing questions

Explanation of exercise

During this activity, students will engage in small group discussions led by a student facilitator. The goal is to encourage critical debate and discussion.

Time: 20-45 minutes

Instructions/Steps

Step 1: Divide students into small discussion groups of (4-5 students) and have them select a group facilitator.

Step 2: Explain to students that they will be engaging in a group discussion, to be facilitated by a fellow student in their discussion group. Explain that, depending on the context, some of these questions may be provocative and that they are intended to encourage critical thinking and discussion. Learners should be instructed to consider human rights principles and laws as they address these questions and arguments should be well-reasoned and supported by fact. It may also be helpful to remind students of the importance of treating individuals with respect during heated discussions.

Step 3: After the small group discussion, ask students to report back to the entire group on some of the key issues/points/arguments discussed in small groups.

Questions

- Watch the following video (<https://www.youtube.com/watch?v=wZmV3RecdGE>) and then discuss the following question: Should the media give a voice to extremist groups or individuals?
- What mechanism(s) do you think Myanmar should pursue as part of a transitional justice process? Which ones and why?
- What are the challenges you think you do or will face in trying to promote human rights? How can these challenges be overcome?
- A university drafts new rules regarding admission practices. The first rule is that admission decisions cannot discriminate based on gender, race, religion, ethnicity, or social status. Is this sufficient to ensure equality in the admissions process? Why or why not?
- Should consenting adults be allowed to marry whomever they wish regardless of religious belief, ethnicity/race, age, sexual orientation, or other factors?

Minority students in a rural village are not able to go to school every day because the government claims it cannot afford to pay all of the teachers' salaries. In the capital, police are unlawfully restricting the freedom of movement of a group of students who wish to assemble for a protest.

The government is considering two budget proposals. The first provides money to train the capital police on how to properly enforce the laws on assembly. The second would allocate money to pay for the teachers' salaries. The government argues that it only has sufficient money to fully fund one proposal. What factors do you think they should consider when reviewing these proposals? What would you suggest that they do?

- Should individuals be allowed to choose to use the bathroom that corresponds to their gender identity? Should all bathrooms be gender neutral?

