Transnational Public Interest Lawyering

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This module introduces students to strategic human rights litigation through the exploration of a selection of cases, actors, strategies in the field of international and transnational public interest lawyering. Through examining the mobilisation of international legal strategies students will be introduced to key case-studies in order to develop a critical understanding of the promise and limitations of international legal practice, especially with regards to access of justice and the realisation of human rights claims. In addition to questioning the centrality of lawyers and the law to social change we will explore trends, methods and innovations that are reshaping practice or pushing beyond traditional legal forums in order to appreciate the rapid change in this burgeoning field.

Students will also confront a body of research on strategic litigation and develop an appreciation of its inter-play with non-legal activities and challenges. This theoretical component will inform consideration of the active cases of the Global Legal Action Network providing students with insights into professional and ethical difficulties associated with international practice. Finally, students will reflect on the complex task of lawyering across multiple legal orders and the opportunities presented by transnational and non-state law.

Learning outcomes

Upon the successful completion of this course students will be able to:

- Understand the key critiques of international law relevant to human rights claims and protection mechanisms.
- Understand the role of transnational spaces and processes in the production of human rights violations, accountabilities and remedies.
- Evaluate the strengths and limitations of international human rights mechanisms, litigation strategies and remedies.
- Identify the practical, legal and ethical issues obstacles inherent in international human rights litigation.
- Appreciate the contingent nature of the role of the lawyer in the realisation and production of traditional and alternative forms of legal accountability.
- Critically assess the potential, risks and impact of strategic litigation strategies.
Format
Subject to new COVID arrangements. Students are expected to attend all seminars. The course will be taught by weekly seminars, each three hours, over four weeks. Students are expected to have read all prescribed readings in advance of each seminar (8-10 hours each week of independent learning). Students are expected to actively anticipate in class discussion, group activities and individual activities throughout the course of the module.

Assessment
Presentation: Students will choose a litigation case study and make an individual presentation that takes a critical perspective on the design and impact the legal action. Case-studies should be selected and approved with the assistance of the course convenor (20%)
Essay: Students will be assigned an area of law and tasked with writing a short essay on a particular area of transnational litigation. Students will be permitted to draw on the literature encountered during seminar, the memo should be submitted in hardcopy and electronically via Blackboard (70%).
Class participation: (10%)

Course Outline

Week 1: Strategic litigation as a tool to advance human rights?


Further reading


Week 2: Strategic human rights litigation and the transnational space

What is transnational law and what does it mean with respect to human rights litigation? Here we examine some conceptual approaches to this area of law and consider concrete case studies highlighting the potential and pitfalls of this domain of practice.


Further reading


Week 3: The role of the lawyer and NGO
Following an exposition of core concepts, we examine the relationship between the lawyer and social change and the preconception that lawyers and litigation are key to all sorts of social change movements.

Nayel, MA “Palestinian refugees are not at your service” The Electronic Intifada 17 May 2013


Further reading


Week 4: Methods and Trends

From strategies and innovative approaches we turn to consider the practicalities of transnational lawyering including methods and resourcing.


Further reading


Prihandono, I. “Barriers to transnational human rights litigation against transnational corporations (TNCs): the need for cooperation between home and host countries.” *Journal of law and conflict resolution*, (2011). 3(7), 89-103

Resources and further reading


Redress & FIDH Extraterritorial Jurisdiction In The European Union A Study Of The Laws And Practice In The 27 Member States Of The European Union (2010) https://www.fidh.org/IMG/pdf/Extraterritorial_Jurisdiction_In_the_27_Member_States_of_the_European_Union_FINAL.pdf


Sherpa (France) https://www.asso-sherpa.org/organization