

Fundamental Rights (B001331)

Course size *(nominal values; actual values may depend on programme)*

Credits 6.0

Study time 180 h

Course offerings and teaching methods in academic year 2023-2024

B (semester 1)

Dutch

Gent

lecture

Lecturers in academic year 2023-2024

Haeck, Yves

RE22

lecturer-in-charge

Offered in the following programmes in 2023-2024

crdts

offering

Bachelor of Arts in Oriental Languages and Cultures(main subject Arabic and Islamic Studies)

6

B

Bachelor of Arts in Oriental Languages and Cultures(main subject China (China Track))

6

B

Bachelor of Arts in Oriental Languages and Cultures(main subject China (UGent Track))

6

B

Bachelor of Arts in Oriental Languages and Cultures(main subject India)

6

B

Bachelor of Arts in Oriental Languages and Cultures(main subject Japan)

6

B

Bachelor of Arts in African Languages and Cultures

6

B

Bachelor of Arts in East European Languages and Cultures

6

B

Bachelor of Arts in History

6

B

Bachelor of Arts in Moral Sciences

6

B

Bachelor of Arts in Philosophy

6

B

Bachelor of Laws in Laws

6

B

Bachelor of Science in Political Science

6

B

Linking Course Master of Arts in Gender and Diversity

6

B

Teaching languages

Dutch

Keywords

International Human Rights, Regional human rights, European Convention on Human Rights, challenges in the ambit of human rights and interaction with other regimes and actors

Position of the course

Human rights discourse is omnipresent in contemporary society. Claims are often captured in terms of human rights claims. But what exactly are human rights and how should these rights be interpreted? This course, after a historical and conceptual introduction to human rights, as well as an overview of human rights instruments and supervisory bodies at the universal level, essentially looks at the European Convention on Human Rights, focusing on both the substantive and the procedural aspects of the rights and the supervisory mechanism. This Convention has an enormous impact on virtually all areas of law, so that dealing with this subject is essential in the education of every jurist/lawyer.

Contents

The lectures on the course of Human Rights relate to general theoretical parts of human rights, challenges in the ambit of human rights and interaction with other regimes and actors, but the emphasis of the course is on the European Convention on Human Rights (ECHR). In the course of Human rights amongst others the following questions are therefore addressed: What are human rights? What are the characteristics of human rights? When did human come into existence? What are the sources of human rights? What types of rights exist and are all these rights enforceable? What do the United Nations do for the protection of human rights? What does Europe do for the protection of human rights? What is the importance of national human rights institutions? How does the ECHR have to be interpreted? How does the European Court

of Human Rights decide exactly? What are the legal effects of judgments of the European Court? In addition, a number of substantive rights are dealt with, as well as some themes. This concerns for example the right to life (Article 2 ECHR), the prohibition of torture (Article 3 ECHR), the prohibition of slavery and forced labour (Article 4 ECHR), the right to personal liberty (Article 5 ECHR), the right to privacy (Article 8 ECHR), freedom of expression (Article 10 ECHR), the human rights of indigenous peoples or the rights of refugees and human rights in times of war or emergency. The legal topics vary each year depending on their topical value.

Initial competences

The course does not require specific prior knowledge, although the student is familiar with the great periods of modern history. A basic knowledge of public international law or Belgian public law can be useful for this purpose.

Final competences

- 1 Knowledge of and insight into the historical and philosophical foundations of human rights.
- 2 Knowledge of and looking up of contemporary sources of human rights (hard and soft law) in English and Dutch.
- 3 Being aware of the - sometimes different - legal force of human rights instruments.
- 4 Knowledge of and use of specific human rights terminology (e.g., kinds and generations of human rights; types of human rights treaties, human rights declarations, resolutions, recommendations, etc.), in Dutch, English (the lingua franca for international human rights) and French.
- 5 Being aware of the progressive evolution of human rights, the protection of human rights, in particular since the beginning of the 20th century, both in a Western context and in the South, from a political and legal standpoint.
- 6 Situating human rights and human rights supervisory bodies on a universal level (UN) and a regional level (regional organisations).
- 7 Interpreting human rights according to the rules of interpretation used by human rights supervisory bodies, whereby, *inter alia*, the evolving nature of human rights is clear, in particular on the basis of interpretation methods used when applying the European Convention on Human Rights and other regional and universal human rights instruments.
- 8 Identifying human rights violations in factual, sometimes very specific situations with high topical content, on the basis of the theory, in particular under the European Convention on Human Rights and universal and regional human rights instruments.
- 9 Reasoning in a creative-legal way which legal approach to preventing or remedying violations is the best/less good or less correct and/or why does a particular situation constitute a human rights violation (or not), on the basis of human rights instruments and existing international law developed by monitoring mechanisms, in particular by the European Court of Human Rights.
- 10 Awareness of the role and importance of human rights, the creative interpretation and input by/of (inter)national human rights supervisory bodies and the jurist/lawyer in that respect, but also of the limits to the manufacturability of society and the solving of hot legal controversial issues by (inter)national human rights bodies, populated by lawyers.

Conditions for credit contract

Access to this course unit via a credit contract is unrestricted: the student takes into consideration the conditions mentioned in 'Starting Competences'

Conditions for exam contract

Access to this course unit via an exam contract is unrestricted

Teaching methods

Lecture

Extra information on the teaching methods

Some lectures are given by human rights experts from abroad, in the ambit of Ghent University's 'internationalisation@home' concept. As such, a Senior Lawyer of the European Court of Human Rights and the Coördinating Policy Advisor of the Dutch College voor de Rechten van de Mens are invited for a guest lecture.

Learning materials and price

- Syllabus Mensenrechten: the texts on the history of human rights, the types and generations of human rights, the United Nations and human rights, the case-law of the European Court of Human Rights, etc. are made available through TopCopy (Cost: more or less 30 €).
- Exceptionally, some texts will be made available through Ufora.

- Texts of international human rights instruments are included in traditional codex, e.g., VRG-Gent Codex on International and European Law.
- The power points with college schedules are made available after class through Ufora.

References

- O. De Schutter, International Human Rights Law. Cases, Materials, Commentary, Cambridge, Cambridge University Press, 2019.
- J. Gerards, Y. Haeck, I. Leijten, J. Meese and B. van Bockel, Sdu Commentaar EVRM, Den Haag, Sdu Uitgevers, 2019, 2 delen
- D. Harris, M. O'Boyle, E. Bates and C. Buckley, Law of the European Convention on Human Rights, Oxford, Oxford University Press, 2023.
- R. Smith, International Human Rights Law, Oxford, Oxford University Press, 2022.

Course content-related study coaching

- A general information note on the course of Human Rights, including a number of examples of exam questions will be made available through Ufora at the beginning of the semester.
- An overview of the specific course topics, including the dates of the lectures and the texts to be read before each lecture, will be made available through Ufora at the beginning of the semester.
- An overview of the exact exam materials will be made available through Ufora at the beginning of the semester.
- The lecturer, together with the students, will solve a number of additional sample exam questions during a special lesson in the course of the semester.
- For questions related to the course or practical problems the students can always contact the lecturer or the assistant: Lecturer: Prof. Yves Haeck, without appointment: before and after class and during the break; by appointment via e-mail (Yves.Haeck@UGent.be). Assistant: Marlies Vanhooren by appointment via e-mail (Marlies.Vanhooren@UGent.be).
- Substantive questions about the course can be made throughout the semester, but from the 'restriction period' on (a number of weeks preceding the exam) no more substantive questions can be asked.
- Students with an interest in human rights are advised to take a summer course or to do an internship/traineeship in the future. To this end, the lecturer, together with a colleague, launched an English-language website named 'Top International Human Rights Courses, Traineeships & Jobs' (www.humanrightsincontext.be). This website provides an overview of the top LLM, MA and MSc human rights programs, short courses and summer schools human rights, as well as internships in Europe.
- Students who wish to follow a summer course abroad in the future, have questions about 'legal writing', wish to do their master thesis on a human rights issue, or wish to participate in the 'Advanced Study in International Moot Court on Human Rights' (participation in an international moot court competition in Washington DC), etc., may also contact the lecturer.

Assessment moments

end-of-term assessment

Examination methods in case of periodic assessment during the first examination period

Written assessment with multiple-choice questions, Written assessment with open-ended questions

Examination methods in case of periodic assessment during the second examination period

Written assessment with multiple-choice questions, Written assessment

Examination methods in case of permanent assessment

Possibilities of retake in case of permanent assessment

not applicable

Extra information on the examination methods

The total exam score is 20. The exam consists of two parts:

- A closed book exam with open questions and a limited number of multiple choice questions (on 10 (or on 12) points): knowledge, understanding and application of the general theoretical parts on human rights are tested via 3 to max. 6 questions.
- An open book exam with open questions, and sometimes a few multiple choice questions (on 10 (or to 8) points): The exam essentially consists of a number of factual cases (factual situations) (2 to max. 4 questions), in which the students is asked whether these factual situations constitute a violation of the rights and freedoms in the ECHR or other human rights instruments; the questions are also intended for the student to make connections between parts of the course and evaluate certain theoretical parts in a critical way.

Calculation of the examination mark

Scores are rounded up as from 0,5.