



University of the
West of England

MODULE SPECIFICATION

Code: UJUTG7-30-3

Title: European Human Rights

Version: 3

Level: 3

UWE credit rating: 30

ECTS credit rating: 15

Module type: Standard

Owning Faculty: FBL

Field: Law Undergraduate

Faculty Committee approval: QSC

Date:

Valid from: September 2008

Discontinued from:

Contributes towards: LLB; LLB. (European and International Law); LLB. (Law with French); LLB. (Law with German); LLB. (Law with Spanish); LLB. (Law with English as a Foreign Language); BA (Law); BA (Joint Awards)

Pre-requisites: Method, Procedure, & System (UJUTA3-30-1); Constitutional and Administrative Law (UJUTA4-30-1).

Co-requisites: None

Excluded combinations: None

Learning outcomes:

European Human Rights (EHR) is an introductory course through which students will explore the European Convention on Human Rights (ECHR), and the Human Rights Act 1998 (HRA). The course will introduce students to a broad range of legal issues, and encourage the development of a detailed knowledge and understanding of the scope of a number of individual Convention rights.

The course takes into account the pervasive role of European human rights following the commencement of the Human Rights Act 1998. All students are expected to have a thorough understanding of the workings of the Act and issues that surround it, as well as a detailed knowledge of the Convention rights.

The course will develop an intimate knowledge of not only the case law of the European Court of Human Rights but also relevant comparative materials from the Commonwealth, other European jurisdictions, the USA and other jurisdictions.

On completion of this course a student will enjoy these subject specific abilities:

1. demonstrate knowledge and understanding of the Human Rights Act 1998.
2. demonstrate knowledge and understanding of the Convention rights.
3. demonstrate knowledge and understanding of case law and juristic principles of the key Convention rights.
4. demonstrate knowledge and understanding of how Convention rights may have an impact of settled practices of English law.
5. demonstrate knowledge and understanding of how comparable jurisdictions approach the interpretation and application of similar human rights guarantees.
6. demonstrate knowledge and understanding of the jurisprudential issues underlying the interpretation of Convention rights.
7. identify and retrieve knowledge of relevant law from electronic and paper sources, including *Hudoc* and the Council of Europe internet site.
8. use primary legal resources in developing knowledge and understanding and applying knowledge to the solution of problems.

On completion of this course a student will enjoy these transferable intellectual skills:

1. make critical judgments about the merits of arguments found in controversial matters pertaining to Convention rights.
2. act independently in identifying and commenting on relevant case law on the basis of both matters that have been introduced in lectures and those that have not.

On completion of this course a student will enjoy these key skills:

1. explain, analyse and critically evaluate, in both writing and orally, important issues relating to the Human Rights Act 1998 and Convention rights.
2. retrieve and comprehend the main points of a number of complex cases.
3. produce a word processed essay.
4. deliver a short oral presentation on detailed research.
5. use the world wide web for research.
6. identify problems and solutions in factual situations, and produce legal advice accordingly.
7. use electronic retrieval systems including *Hudoc*.

Syllabus outline:

The course will consist of the following areas of study:

- The structure of the Human Rights Act 1998 and problems related to its effect and application.
- The general principles governing the approach to the Convention by the European Court of Human Rights.
- The substantive rights of the Convention and Protocols 1 & 6, and the principal themes of the case law.
- The general principles governing the approach to the human rights adjudication in comparable jurisdictions.

Specifically, the course syllabus includes:

A. History and Mechanisms of the ECHR and HRA 1998.

(1) The ECHR.

- Background to the establishment of the ECHR.
- The Convention and its Protocols.
- Article 1 duty. The positive duties on signatories.
- The right of individual petition.
- Protocol 11 – the new Court.
- How to bring a case before the ECHR.

(2) Background to the Human Rights Act 1998.

- Antecedents of the HRA.
- Export model for the Commonwealth.
- Campaign for a British Bill of Rights.
- New model BORs – Canada and New Zealand.
- Role of un-incorporated international treaties.
- Labour Party Policy (Bringing Rights Home).
- Rights Brought Home – White Paper 1997.
- Parliamentary Debates on the Human Rights Bill.
- Devolution.

B. Human Rights Act 1998.

- Purpose behind the Act.
- Comparisons to other national Bills of Rights.
- ‘Convention rights’.
- Is the Convention incorporated ?
- Is the HRA compatible with the ECHR ?
- Outline of the operative provisions:
 - Role of Strasbourg case law. (s.2, HRA).
 - Reading down. (s.3, HRA).
 - Declaration of Incompatibility (s.4, and s.10 HRA).
 - Public authorities (s.6, HRA)

- Standing (s.7, HRA).
- Remedies (s.8, HRA).

C. General Issues HRA

- Interpretative techniques.
- Margin of appreciation / deference.
- Horizontal application of the HRA.
- Limitation of rights.
- Constitutional adjudication (mootness, ripeness).
- Vague and overbroad laws.
- Inter-relationship between the rights and freedoms.
- Proof of fact etc. in constitutional litigation.
- Brandies Briefs.

D. The Right to Life

- Death sentence.
- Assisted suicide.
- Deaths caused by law enforcement agencies.
- The duty to protect life.
- Health Care.
- Abortion.

E. Cruel and unusual, degrading, punishment and/or treatment.

- Torture.
- Corporal punishment.
- Prison conditions.
- Deportation
- Minimum sentences inc. the life sentence.
- Police Interrogations.

F. Criminal justice and the Convention.

- Right to liberty and security of the person – the nature of the interest protected.
- Arrest and detention.
- Rights for the arrestee.
 - Reasons for their detention.
 - Conditions.
 - Right not to be held incommunicado.
 - Habeas corpus.
- Rights on being charged.
- Right to silence.
- Right to bail pending trial.
- Right to prepare a defence.
- Right to assistance of counsel.
- Right to a speedy trial.
- Presumption of innocence.
- Right to a fair trial
 - Full answer and defence.
 - Equality of arms.
- Improperly obtained evidence.
- Entrapment.

G. Privacy and integrity of home life etc.

- Search and seizure.
- Interception of Communications.
- Private life.
- Family issues.
- The home and environmental pollution.

H. Freedom of Expression.

- Philosophical justifications for free speech.
- Political speech.
- Prior restraint / Censorship.
- The Press.
- Commercial speech.

- Obscenity and pornography.
- Right to receive information.
- Hate Speech.

I. Equality

- The new protocol 12.
- Discrimination.
- Affirmative action and positive discrimination.

J. Religious Freedoms.

- Historical reasons for guarantee.
- Content of right.
- Religious discrimination.
- Sectarian endorsement.
- Denominational schools.
- School prayers.

K. Property Rights.

- Justifications for protecting property.
- Definition of property.
- Expropriation by the state.
- Regulation.

L. Democratic Rights.

- Content of democratic rights.
- Right to vote.
- Restriction on campaigning.
- Malapportionment.
- Members of Parliament.

Teaching and learning methods:

The emphasis throughout will be on providing the student the opportunity and facilities to question, understand, analyse and evaluate the law in its historical, practical, academic and social context. The learning context is student-centred and utilizes a variety of techniques to encourage independent thought and constructive criticism. Dialogue is promoted between student and lecturer in an inter-active relationship which emphasizes the two-way flow of information and criticism.

Subject to the requirements of the Professional Bodies, it is not necessarily envisaged that every topic in the syllabus will be covered in any one academic year. Areas which have topical significance could, therefore, be developed at greater length and less important areas delineated in outline only.

Students will be expected to conduct research with both traditional and electronic sources and will be instructed how to do this both during the Programme as a whole and, where necessary, within the module.

Contact hours:

Lectures: 2 hours per week.
Seminars: 1 hour seminar per fortnight.

Student preparation:

Lectures: In most cases there is no expectation of preliminary work. However, students may be given directed preliminary reading from recommended texts. Occasionally material may be also given out in advance so as to provide the basis for practical exercises or for more detailed discussion of topics to be conducted within the lecture. This will apply more to Level 3 options' modules where group sizes allow for a more interactive approach to lectures.

Guest speakers will be utilised where appropriate.

Seminars: The Programme estimates a preparation time of 10 hours per seminar. At Level 1 much of this time will be taken up with acquiring experience of research and with gaining a familiarisation with legal method. At Level 3, more qualitative research and preparation is expected.

Seminar preparation tasks include working individually, in pairs or in small groups. Students will be given seminar sheets in advance of their seminars which will be centred on the analysis of cases, statutes, European and Human Rights' material as appropriate.

The material will usually be problem or discussion title-based. Supplementary material (usually of a problem-solving nature) may be provided in the seminar.

Directed reading will be suggested along with internet sources and video material as appropriate. At Level 1 students will be given more direction in terms of sources and specific questions to address.

Students are expected to make full use of their independent learning time to reflect critically upon the subject and to develop their own ideas.

Operation and purpose:

Lectures: On most topics covered, outline learning materials will be supplied to students during or in advance of the lectures. Lectures are generally designed to:

- (a) communicate the principal features of a topic, including its major principles, rules, concepts, relationships and values;
- (b) to stimulate interest in the topic and provide alternative views; and
- (c) to provide other information necessary to facilitate its further study, including updating.

Seminars: Seminars will involve problem-solving and the analysis and synthesis of conceptual and contextual issues, through plenary discussion and presentations by individual students or groups of students. Students are expected to fully participate in seminar discussions, which will cover the controversial and difficult areas of the subject.

We see the function of seminars to be:

- (a) to monitor the acquisition by students of the knowledge, understanding and skills mentioned under the *Learning Outcomes*; and
- (b) to facilitate and enhance the acquisition of that knowledge, understanding and skills and to foster deeper learning.
- (c) to allow students to evaluate, analyse and synthesise legal materials in an interactive environment and to facilitate their appreciation of the levels of variation of opinion which may be generated in legal discussion.

Other learning activities:

Students will be expected to pursue independent and directed study between class contact sessions. Students will be encouraged to engage in extra-curricula activities such as debating and mootng.

Reading Strategy

Students are advised that they should purchase a standard textbook on the Convention. Janis, Kay and Bradley, *European Human Rights Law*, (2000, 2nd edition) OUP is the recommended textbook. This book provides students with a good introduction to the ECHR.

Students will be expected to read law reports and refereed journals, including for example the European Human Rights Law Review and Public Law. The ability to use the excellent case database, *Hudoc*, is encouraged.

Further reading is provided as the course progresses, tailored to the ever-changing nature of the subject. This ensures that students are kept fully abreast of new developments.

Indicative Reading List:

The following list is offered to provide validation panels/accrediting bodies with an indication of the type and level of information students may be expected to consult. As such, its currency may wane during the life span of the module specification. However, as indicated above, CURRENT advice on readings will be available via other more frequently updated mechanisms.

Assessment

Weighting between components A and B (standard modules only)

A: 75% B: 25%

NB for standard modules, component A is the component assessed under controlled conditions and for professional practice (PP) modules, component A is the practice component.

ATTEMPT 1

First Assessment Opportunity

Component A

Description of each element

1 Exam (3 hours) Final

Element weighting

100%

Component B

Description of each element

1 Essay

2 Essay

Element weighting

50%

50%

Second Assessment Opportunity (further attendance at taught classes is not required)

Component A

Description of each element

1 Exam (3 hours) Final

Element weighting

100%

Component B

Description of each element

1 Essay

Element weighting

100%

Specification confirmed byDate
(Associate Dean/Programme Director)