

CHILDREN'S RIGHTS IN INTERNATIONAL LAW

Prof. Philip Alston

VH 208 Wednesdays, 6.00 – 7.50 pm

SEMINAR MATERIALS, SPRING 2009

Course materials

No course book is required. The materials will be distributed to students in the course of the semester.

Attendance and participation

All students are required to do the reading in advance of the session, and to participate actively in the discussion. Each student is required to sign up to act as a presenter at two sessions. This involves working with the other co-presenters for a given week to draw up a list of what are considered to be the key questions that emerge from the materials. These questions can be used to structure the class discussion. Presenters should avoid simply summarizing the materials. They might suggest additional readings if they consider that appropriate. Seminar participation will be taken into account in the final grade.

Assessment

Each student taking the seminar for credit is required to write a two credit paper. The topic should be closely related to the issues focused upon in the seminar. A written proposal must be submitted to Prof Alston by the end of the sixth week of the semester. All paper topics must be approved. A draft can be submitted for comments if completed by the end of week 11 of the seminar. All papers must be handed in by the end of the exam period.

Outline of sessions

Part I: Children's rights in context

- Jan. 14 1. Identifying key issues
Jan. 21 2. Conceptions of childhood and of rights
Jan. 23 (2-4pm) 3. The international legal framework for children's rights

Part II: Balancing rights and responsibilities: state, family, and child

- Jan. 28 4. Juvenile justice: reflecting the 'evolving capacities' of the child
Jan 30 (2-4pm) 5. Corporal punishment
Feb. 4 6. Children's participation and voice
Feb. 11 7. Children's rights and adolescent sexuality
March 4 8. Inter-country adoption

Part III: Economic, Social and Cultural Rights

- March 11 9. Constitutional recognition of children's rights
March 25 10. The right to education –religious rights and exemptions
April 1 11. Culture: traditional practices
April 8 12. Culture and gender: child marriage

Part IV: Actors

- April 15 13. Child soldiers: evaluating the impact of the CRC
April 22 14. Multilateralism v. unilateralism, the case of trafficking

Seminar 1: Identifying key issues

Selected news stories on children's rights

Report of Chad to the UN Committee on the Rights of the Child, to be examined at the Committee's January 2009 session. UN Doc. CRC/C/TCD/2

Seminar 2: The international legal framework for children's rights

Declaration on the Rights of the Child 1924

Declaration on the Rights of the Child 1959

Convention on the Rights of the Child 1989

Committee on the Rights of the Child, General Comment No 5: General Measures of Implementation of the Convention on the Rights of the Child (2003) UN doc. CRC/GC/2003/5

William A Schabas, 'Reservations to the Convention on the Rights of the Child', 18 *Human Rights Quarterly* (1996) 472-491.

Sample of reservations and declarations

Reporting under the CRC by the United Kingdom: Briefing Paper Quaker United Nations Office – Geneva, Oct 2008

Committee on the Rights of the Child, Concluding observations: United Kingdom of Great Britain and Northern Ireland, 2008

Seminar 3: Conceptions of childhood and of rights

Harry Hendrick, 'Children and Childhood', in ReFresh (Recent Findings of Research in Economic and Social History), No. 15, Autumn 1992

Martha Minow, 'What Ever Happened to Children's Rights?', 80 *Minn. L. Rev.* 267 (1995)

Martin Guggenheim, 'Ratify the U.N. Convention on the Rights of the Child, but don't Expect any Miracles', 20 *Emory Int'l L. Rev.* 43 (2007)

David Weissbrodt, 'Prospects for Ratification of the Convention on the Rights of the Child', 20 *Emory Int'l L. Rev.* 209 (2006)

Michael Freeman, 'Why it Remains Important to Take Children's Rights Seriously', 15 *International Journal of Children's Rights* (2007) 5

Seminar 4: Juvenile Justice: Reflecting the 'Evolving Capacities' of the Child

Excerpts from the Convention on the Rights of the Child

Committee on the Rights of the Child, General Comment No. 10 (2007):
Children's Rights in Juvenile Justice

Campaign for Youth Justice, 'Legal Loophole Leads to Explosion of Youth in Adult Jails', March 21, 2007.

The Difference between Youth and Adults, from Human Rights Watch, *The Rest of Their Lives: Life without Parole for Child Offenders in the United States* (Oct. 2005)

Roper v. Simmons, US Supreme Court, No. 03-633, March 1, 2005

Life Without Parole: Human Rights Watch, *The Rest of Their Lives*, Case study and Summary of report

'Age of criminal responsibility', in UNICEF, *Juvenile Justice*, Innocenti Digest No. 3 (Florence, 1998)

T. v. The United Kingdom, European Court of Human Rights, Application no. 24724/94, 16 December 1999

The Director of Public Prosecutions Kwazulu-Natal v. P., Supreme Court of Appeal of South Africa, Case No. 363/2005 (1 Dec. 2005)

The Queen v. D.B. Supreme Court of Canada, May 16, 2008

Seminar 5: Corporal punishment

Committee on the Rights of the Child, General Comment No. 8 (2006), The right of the child to protection from corporal punishment ...

Human Rights Watch, Spare The Child: Corporal Punishment in Kenyan Schools, (1999), at 3

'Many in U.S. Back Singapore's Plan to Flog Youth', New York Times, April 5, 1994, p. A6

Regina (Williamson and others) v Secretary of State for Education and Employment, House of Lords, 24 Feb 2005

Plonit v Attorney-General, Supreme Court of Israel, Case 4596/98, Jan. 2000
[**separate pdf file**]

Elizabeth Gershoff & Susan Bitensky, 'The Case Against Corporal Punishment of Children: Converging Evidence from Social Science Research and International Human Rights Law and Implications for U.S. Public Policy', 13 *Psychology, Public Policy, and Law* (2007) 231. [**separate pdf file**]

Seminar 6: Children's participation and voice

[*These materials are all contained in a single pdf file entitled '06-Materials-participation.pdf'*]

Nigel Thomas, 'Towards a Theory of Children's Participation', 15 *International Journal of Children's Rights* (2007) 199.

Rachel Hinton, 'Children's Participation and Good Governance: Limitations of the Theoretical Literature', 16 *International Journal of Children's Rights* (2008) 285

Allison James, 'Giving Voice to Children's Voices: Practices and Problems, Pitfalls and Potentials', 109 *American Anthropologist* (2007) 261

E. Kay Tisdall, 'Is the Honeymoon Over? Children and Young People's Participation in Public Decision-making', 16 *International Journal of Children's Rights* (2008) 419