

International Law

Academic year 2019-2020

Human Rights and the Media

DI130 - Autumn - 6 ECTS

Course Description

This course will be given over a 4 week period from the 12th of November until the 3rd of December at 08:15 and 12:15 on Tuesdays and Thursdays.

This course will examine the application of international human rights principles to the operations of the media, including news media and social media. Relevant rights (eg regarding freedom of expression) and responsibilities (eg regarding national security, public safety and democratic processes) are analysed, alongside the role of the media in promoting and advocating for human rights (and doing the opposite). Topics will include the scope of rights relating to the publication of material and the confidentiality of sources (including the Wikileaks controversy), the appropriate human rights responsibilities of social media platforms with regard to issues such as hate speech and fake news, and the role of social media in the Arab Spring.

> PROFESSOR

[Sarah Joseph](#)

[Office hours](#)

> ASSISTANT

Hiruni Nadezhda Alwishewa

[Office hours](#)

Syllabus

Evaluation

20% of your mark will be made up by an oral presentation in class during the course. The nature of the oral assessment will depend on the numbers in the class. If manageable, students will give oral presentations in pairs. If unmanageable, the 20% will be made up of a class participation mark.

The final evaluation will consist of an essay worth 80%, which will be due on 20 December 2019. Students will have to submit a 2000 word essay on topic within the subject matter of the course. The lecturer will hand out suggested essay topics in the second week of the course. Students are also able to devise their own topic, but they must receive email approval of the exact topic from the lecturer. Footnotes are not included within the word limit.

- Assessment must be submitted in the English language

Readings and support materials:

Required readings for each session are listed below and are available in links embedded in this righting guide, on the moodle or in the library. Please consult moodle regularly as additional materials may be uploaded there.

Timetable

Please note that this course will run from 12 November until 3 December inclusive.

Class times are Tuesdays and Thursdays in two slots: 8:15-10 and 12:15-2.

DAY 1 - 12 November

What is the media?

Required Reading

Marshall McLuhan, *Understanding Media: The Extensions of Man*, Chapter 1 "[The Medium is the Message](#)"

Edward Herman and Noam Chomsky, "A Propaganda Model", extract from [Manufacturing Consent](#) (*you don't have to watch the movie but it may be instructive to do so*)

James E. Katz, "Communication Perspectives on social networking and citizen journalism challenges to traditional newspapers", *Periodica Polytechnica*, 19/1 (2011) 51-62.

Extra Optional Reading

Douglas Kellner, "[Baudrillard: the new McLuhan ?](#)", *Illuminations : A Critical Theory Project*

Who is a journalist?

Required Reading

Jane Johnston, "[Are bloggers 'journalists' ? New Zealand's High Court says yes](#)", *The Conversation*, 15 September 2014

Eli Lake, "[Is Assange a Journalist ? It depends what year you ask](#)", *Bloomberg Opinion*, 18 April 2019

Peter Greste, "[Assange is no journalist : don't confuse his arrest with press freedom](#)", *Sydney Morning Herald*, 12 April 2019

Extra Optional Reading

Yochai Benkler, "A Free Irresponsible Press : Wikileaks and the Battle over the Soul of the Networked Fourth Estate", (2011) 46 *Harvard Civil Rights Civil Liberties Law Review* 311-398

Media and human rights – general introduction

Required reading

Daniel Joyce, "Human Rights and the Mediatization of International Law", (2010) 23 *Leiden Journal of International Law* 507-527

The Hon Ray Finkelstein QC, [Report of the Independent Inquiry into the Media and Media Regulation](#), (Commonwealth of Australia, 28 February 2012), pages 23-54

Commission of Human Rights of the Council of Europe, "[Ethical Journalism and Human Rights](#)", 8 November 2011

DAY 2 : 14 November

Human rights threats to the media

Required reading

[Joint Declaration on Media Independence and Diversity in the Digital Age](#), 2 May 2018

Dominik Bychawska-Siniarska, "[Protecting the Right to Freedom of Expression under the European Convention on Human Rights](#)", Chapter 8

Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases Commentary and Materials* (OUP, 3rd ed, 2013), paras 18.18-18.29, 18.44-18.47,

Trine Baumbach, "Chilling Effect as a European Court of Human Rights' Concept in Media Law Cases", (2018) 6 *Bergen Journal of Criminal Law and Criminal Justice* 92-114

Rapporteur for the Committee on Legal Affairs and Human Rights in the Parliamentary Assembly of the Council of Europe (Pieter Omtzigt), "[Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring the whole truth emerges](#)", 8 June 2019, especially pages 1-6, 20-26

Joyce D, 2007, "The Judith Miller Case and the Relationship between Reporter and Source: Competing Visions of the Media's Role and Function", *Fordham Intellectual Property, Media & Entertainment Law Journal*, vol. 17, pp. 555 - 589

Cases: please note that you must read the Court's assessment of the merits regarding Article 10 ECHR. You don't necessarily have to read the entire case.

Sunday Times v UK, Judgment of the European Court of Human Rights, 26 April 1979 (on prior restraints regarding contempt of court)

Jersild v Denmark, Judgment of the European Court of Human Rights, 23 September 1994 (on the alleged publication of hate speech by the media)

Centro Europa 7 S.r.l and Di Stefano v Italy, Judgment of the European Court of Human Rights, 7 June 2012 (on media diversity)

Dimitrijeviy v Russia, Judgment of the European Court of Human Rights, 3 October 2017 (suppression of alleged support for terrorism by a media outlet)

Big Brother Watch and others v UK, Judgment of the European Court of Human Rights, 13 September 2018 (on the impact of mass surveillance on media freedom)

Extra Optional Reading

Annex to the Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (Agnes Callomard): "Investigation into the unlawful death of Mr Jamal Khashoggi", 19 June 2019, especially pages 84-99.

DAY 3 – 19 November

Human rights responsibilities of the media

Required Reading

Sarah Joseph, "Is Fox News a Breach of Human Rights: the News Media's Effective Immunity from the Guiding Principles", (2016) 1 (2) *Business Human Rights Journal*, pp 229-253

Lord Leveson, [An Inquiry into the Culture, Practices and Ethics of the Press](#), Volume 1, Part B, Chapter 4, pp 76-90

Lord Leveson, [An Inquiry into the Culture, Practices and Ethics of the Press](#), Volume 2, Part F, Chapters 5 and 6, pp 539-716 (*you don't need to read every single case study but do read a selection of them*)

Brian Stelter, "[Coverage of Koran case stirs Questions on Media Role](#)", *New York Times*, 9 September 2010

Kyo Ho Youm, "[The Right of Reply and Freedom of the Press : An International and Comparative Perspective](#)" (2008) 76 *George Washington Law Review* 1017

Jerome A. Barron, "[Access to the Media – A Contemporary Appraisal](#)", (2007) 35 *Hofstra Law Review*

Cases

[Von Hannover v Germany \(no 2\)](#), Judgment of the European Court of Human Rights, 7 February 2012 (privacy)

[Venables and Thompson v News Group Newspapers](#) [2019] EWHC 494 (Fam), Family Division of the High Court of England and Wales, 4 March 2019 (suppression of identity)

DAY 4 – 21 November

The first lot of oral presentations will be delivered in the morning.

Human rights advocacy and the media

Required Reading

Stephen Hopgood, *The Endtimes of Human Rights* (Cornell University Press, 2013), Chap 4.

Sverker Finnström, “Kony 2012, Military Humanitarianism, and the Magic of Occult Economies”, (2012) 2-3 *Africa Spectrum*, 127-135

Invisible Children, [Kony 2012](#) (video)

In the afternoon of this day we will have guest presentations from members of the International Service for Human Rights (Phil Lynch and Marianne Bertrand) as well as Abdul Aziz Muhamat, who was detained for six years on Manus Island and produced an award winning podcast.

Day 5 – 23 November

Note that the second lot of oral presentations will happen on this day.

The nature of social media, its human rights role, and human rights threats to social media

Required Reading

Sarah Joseph, “Social Media and the Marketplace of Ideas”, *Draft Paper*, 2018

Sarah Joseph, “[Social Media, Political Change and Human Rights](#)” (2012) 35 *Boston College International & Comparative Law Review* 145-188

Daniel Joyce, “Media Witnesses: Human Rights in an Age of Digital Media”, (2013) 8 *Intercultural Human Rights Law Review* 231, 280

Michael Douglas, “[Can you be liable for defamation for what other people write on your Facebook page ? Australian court says : maybe](#)”, *The Conversation*, 25 June 2019

Cases

[Cengiz and Others v. Turkey](#), Judgment of the European Court of Human Rights, 1 December 2015 (blocking of YouTube)

[Tamiz v UK](#), Judgment of the European Court of Human Rights, 19 September 2017 (intermediary liability)

Day 6 - What human rights obligations arise *from* social media ?

Required Reading

Sarah Joseph, "[The Human Rights Responsibilities of Media and Social Media Businesses](#)", in Stephanie Farrow (ed), *Human Rights and Non-State Actors* (Edward Elgar, forthcoming).

Sarah Joseph, "[Facebook's Dilemmas with Hate Speech, Fake Speech and Free Speech](#)", *Australian Institute of International Affairs*, 11 July 2019

Sarah Joseph, "[Why the Business Model of Social Media Giants like Facebook is Incompatible with Human Rights](#)", *The Conversation*, 3 April 2018

Barrie Sander, "Freedom of Expression in the Age of Online Platforms : Operationalising a Human Rights-based Approach to Content Moderation", *draft paper*, 2019

Andrew Neville, "Is it a human right to be forgotten? Conceptualizing the World View", (2017) 15 *Santa Clara Journal of International Law* 158

[Joint Declaration on freedom of expression and "fake news, disinformation and propaganda"](#), 3 March 2017

Tarlach McGonagle, "[Fake News: False Fears or Real Concerns](#)", (2017) 35 *Netherlands Quarterly of Human Rights* 203-209

Emma Irving, "Suppressing Atrocity Speech on Social Media", (2019) 113 *AJIL Unbound*, 256-261

Cynthia M. Wong, "[Social Media's Moral Reckoning](#)", *Human Rights Watch*, 21 December 2018

Paul Mozur, "[A Genocide Incited on Facebook, with Posts from Myanmar's Military](#)", *New York Times*, 15 October 2018

Avi Asher- Shapiro, "[Youtube and Facebook are removing evidence of atrocities, jeopardizing cases against war criminals](#)", *The Intercept*, 3 November 2017

Max Fisher, "[Inside Facebook's Secret Rulebook for Global Political Speech](#)", *New York Times*, 17 December 2018

Extra Optional Reading

Business for Social Responsibility (BSR) [Human Rights Impact Assessment : Facebook in Myanmar](#), October 2018

Barrie Sander, "Democratic Disruption in the Digital Age : Social Media, Cyber Governance and International Human Rights Law", *EJIL Symposium*, 2019

Day 7 – Human Rights and the non-news Media

Please note that it is likely that Day 6 material will conclude on Day 7. There will also be the final lot of oral presentations on this day.

Essential Reading

Report of the Special Rapporteur in the Field of Cultural Rights, “The Impact of Commercial Advertising and Marketing Practices on the Enjoyment of Cultural Rights”, UN doc. A/69/286, 8 August 2014.

Daniel Joyce and Gabrielle Simm, “Zero Dark Thirty: international law, film and representation”, (2015) 2 *London Review of International Law* 295-318