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DIPLOMA EXAMINATIONS (Past papers)

2015 HUMAN RIGHTS LAW EXAM

1 (compulsory)

Comment, in light of the issues discussed in the lectures and the reading materials relating to the General Course, on the following assessment:

Fact-finding by United Nations bodies – whether Special Rapporteurs, commissions of inquiry, or the Office of the High Commissioner for Human Rights – leads to the finding of very few facts, but generates a lot of unsubstantiated opinions. For the most part, UN fact-finders lack the necessary expertise, have no prior knowledge of the situation being investigated or of the broader context within which it occurred, are under-resourced, and often don't even get access to the country concerned. When they report, they don't spell out the methodology followed. They rely heavily on witness testimony which, according to the literature, is notoriously unreliable. They do nothing to protect the witnesses on whom they rely. They do not base themselves on any agreed standards and they are almost entirely unregulated. Yet, their reports can do great damage to a country's reputation and can even lead to innocent individuals being publicly accused of serious crimes without the opportunity to defend themselves. It is time to explore other ways of ascertaining the truth of serious allegations of human rights and humanitarian law violations.

Answer TWO of the following five questions.

2 How have feminist theories affected the development of international human rights law? Discuss with reference to two different initiatives in the field.

3 "There is a dangerous illusion that law can solve all problems. This means that any failure is seen as a failure of law and legal institutions. This may give rise to the view that the law is irrelevant. This, in turn, may lead to a failure to use the law to achieve what it can deliver."

Discuss with reference to serious human rights violations during armed conflict. What could the law deliver in that area?

4 Is the EU's accession to the ECHR a good idea? Why or why not? Please consider the protection of human rights as well as consequences of accession for the relationships between national, international and EU law.

5 You are the High Commissioner for Human Rights, and the year is 2028. The UN Secretary General is preparing the second 6-year report to the General Assembly regarding the state of the treaty body system, and has asked for your advice on what reforms to recommend for the treaty body system, and what obstacles such reforms would face and what their likely impact would be.

How do you respond?

6 "If human rights are to retain relevance in future, lawyers and activists will need to understand climate science and position human rights objectives within climate law."

Given your knowledge of climate change, do you agree? If not, why not? If so, how do you imagine human rights lawyers and activists might "position" themselves?

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Lingsheng Yao



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