TE WHARE WĀNANGA O TE ŪPOKO O TE IKA A MĀUI

VICTORIA
UNIVERSITY OF WELLINGTON

POLITICAL SCIENCE AND INTERNATIONAL RELATIONS PROGRAMME
2007 TRIMESTER 2

POLS/INTP/PHIL363: A TOPIC IN POLITICAL PHILOSOPHY:
HUMAN RIGHTS: THE THEORY AND PRACTICE OF A CONTESTED PROJECT
CRN 1329/15237/1063

COURSE OUTLINE

Lecturer:	Dr Robbie Shilliam
Room:	Murphy 509 (MY509)
Phone:	463 5613
Email:	Robbie.shilliam@vuw.ac.nz
Lecture Times:	Friday 11.00 am – 12.50 pm
Venue:	Murphy 220 (MYLT220)
Office Hours:	will be announced at the first lecture and posted on my office door and Blackboard. You are also welcome to telephone or email me.

Information about any changes to the timetable or programme will be announced in lectures and posted on the Political Science and International Relations and Philosophy notice boards.

Course aims:

The aim of this course is to introduce students to the contested meaning of human rights in theory and practice. The purpose of the course is neither to convince students of the ethical superiority of any particular interpretation of human rights, nor to implant a dismissive attitude in students regarding human rights in general. Rather, the course seeks to cultivate a critical attitude to the fact and possibility of human rights by exploring how the term has been – and continues to be – part of a *contested* ethical and political project. The approach taken is to organise the topic into four parts. In the first part we shall explore how the term "human rights" is heavily contested with regards to: a) its historical and philosophical roots; b) its professed universality in the light of cultural particularities; and c) its emancipatory potential but also its implication in various power structures. In the second part we further our critical analysis by engaging with the practical and ethical problems of upholding human rights in a world divided into states. We shall look at a) how famous international institutions, especially the UN, have attempted to negotiate a commitment to promote universal human rights with a respect for state sovereignty; b) the ethical debates surrounding humanitarian intervention; and c) the challenge to state sovereignty from "within" by indigenous peoples movements. In the third part of the course we use globalisation as a heuristic device through which to examine a number of social and economic aspects of human rights starting with a) the degree to which poverty is an affront to human rights, and the practical and ethical problems of redistribution of needs in the current global order; then b) the historical and current effects of globalisation on the ownership or management of property and resources; and finally c) the increased movement of peoples around the world, and especially the precarious status of illegal immigrants and asylum seekers. In the fourth part of the course we examine emergent forms of pursuing human rights and "global justice", concentrating upon a) truth and reconciliation commissions and issues of transitional justice; and b) non-state advocacy networks including non-governmental organizations, "global civil society" and the "global justice movement".

By the end of the course, students passing the paper should be able to:
- Understand the contested nature of the ethics and practices of human rights.
- Identify political, legal, economic, social and cultural issues of importance to the literature on human rights.
- Identify some major institutional and legal frameworks for the governing of human rights today as well as understand some of the contemporary challenges that face these institutions and frameworks.
- Have some empirical knowledge of events and circumstances that are referenced by – or important for - debates in the human rights literature.

Assessment:
The course will be assessed on the following basis:
1) Two briefing papers (each worth 10% of your total course mark)
Students are required to submit briefing papers for **Week 3** and **Week 6** of the course. A briefing paper is a concise summary of a text that presents its main arguments and findings along with a short conclusion stating your (reasoned) opinion or judgement about the text. The briefing paper should be no longer than one type-written/word processed page (single spaced) and should be organised in numbered- or bullet-points. No bibliography is necessary.
For week 3, you can interrogate either the Walley or Freedman texts.
For week 6, you can interrogate either the Evans and Sahnoun or the Cunliffe texts.
Briefing papers are due by <u>12 noon Friday 27 July (week 3)</u> and <u>12 noon</u> <u>Friday 17 August</u> (week 6).

2) Research Essay (worth 40% of your total course mark)
Students will be required to submit a research essay of **2,500 words**. You can select any of the questions listed for each topic on the reading list below. If you would like to construct your own question, please clear it with me first in my office hours. **Research essays are due by <u>12 noon Friday 21 September</u> 2007.**

3) Final Exam (worth 40% of your total course mark)
There will be a <u>**two hour**</u>, closed-book examination at the end of the trimester. Students will be required to write answers to two essay questions, with both questions carrying equal marks.
Note: The date, time and venue of the final exam will be determined when the University completes its timetable during the second half of the trimester.

The aim of the briefing papers is to evaluate the ability of students to write clearly, concisely, comprehensively and cogently.

The purpose of the research essay is to appraise the ability of students to conduct research and formulate an argument at greater length.

The aim of the examination is to assess the ability of students to integrate and use the knowledge they acquire during the course and their ability to structure ideas in accessible, comprehensive, and coherent essays.

Essential texts:
There is no prescribed textbook for this course but you must purchase the **POLS/INTP/PHIL 363 Book of Readings** for 2007**;** this is available at Student Notes on the ground floor of the Student Union Building. Do not rely on Books of Readings from earlier years as the course content will have changed.

A good overview of the issues and concepts at play in the field of human rights are: Michael Freeman, *Human Rights: An Interdisciplinary Approach,* Cambridge: Polity, 2002. This book can be purchased from Vicbooks located in the Student Union Building on Kelburn Campus.

You can order textbooks and student notes online at www.vicbooks.co.nz or can email an order or enquiry to enquiries@vicbooks.co.nz. Books can be couriered to customers or they can be picked up from the shop the day after placing an order online. Opening hours are 8.00 am – 6.00 pm, Monday – Friday during term time (closing at 5.00 pm in the holidays) 10.00 am – 1.00 pm Saturdays. Phone: 463 5515 (Kelburn campus)

Useful resources:

A comprehensive reference work for human rights instruments can be found in: P. R. Ghandi (ed.) *International Human Rights Documents*, London, 2nd ed. (2000) or online at www1.umn.edu/humanrts/instree/ainstls1.htm

Key journals include the following (but feel free to explore using the search facilities for relevant articles in other journals):

> African Human Rights Law Journal
> Harvard Human Rights Journal
> Human Rights Quarterly (previously, Universal Human Rights)
> The Journal of Human Rights
> Philosophy and Public Affairs
> Review of International Studies
> Global Society

Some useful websites include:

> www.un.org/rights/
> www.unhchr.ch/
> www.amnesty.org/
> www.liberty-human-rights.org.uk/
> www.hrw.org/

Mandatory Course Requirements:

To gain a pass in this course each student must:

   a) Submit the written work specified for this course, on or by the specified dates (subject to such provisions as are stated for late submission of work)
   b) Sit the final exam at the end of the course

PLEASE NOTE that **Friday 19 October 2007** is the FINAL DATE on which any written work can be accepted by the Programme, since this is the date on which we must determine whether students have met the course requirements. This means that the provision for late submission with a penalty does not apply beyond this date. Permission to submit work after 19 October must be sought in writing from the Head of Programme, and will only be granted for <u>serious</u> medical reasons (supported by medical certificate), or in case of <u>serious</u> personal crisis.

N.B. A student who has obtained an overall mark of 50% or more, but failed to satisfy a mandatory requirement for a course, will receive a K grade for that course, while a course mark less than 50% will result in the appropriate fail grade (D or E).

Penalties:

Students will be penalised for late submission of essays—a deduction of 5% for the first day late, and 2% per day thereafter, up to a maximum of 8 days. Work that is more than 8 days late can be accepted for mandatory course requirements but will not be marked. However, penalties may be waived if there are valid grounds, e.g., illness (presentation of a medical certificate will be necessary) or similar other contingencies. In such cases prior information will be necessary.

Workload:

In accordance with Faculty Guidelines, this course has been constructed on the assumption that students will devote **18** hours per week to POLS/INTP/PHIL 363. This includes 2 hours of lectures per week.

Aegrotats:

Please note that under the Assessment Statute (Sections 4.5) students may now apply for an aegrotat pass in respect of any item of assessment falling within the last three weeks before the day on which lectures cease. In the case of **second** trimester courses in 2007 the starting point for this period is Monday **24 September 2007**.

The following rules apply:

- where a student is not able to sit a test falling within these last three weeks because of illness or injury etc., an alternative test will be arranged where possible. If the student has completed in the view of the course supervisor, sufficient marked assessment relevant to the objectives of the course, an average mark may be offered. Where a student has an essay or other piece of assessment due in the last three weeks, and has a medical certificate or other appropriate documentation, the student will be given an extension.
- if none of the above is available to the student, e.g., if she/he has an ongoing illness, than an aegrotat will be considered. See Assessment Statute (Sections 4.5) for a full explanation of the rules governing the provision of aegrotats in these circumstances.

GENERAL UNIVERSITY REQUIREMENTS

General University policies and statutes

Students should familiarise themselves with the University's policies and statutes, particularly the Assessment Statute, the Personal Courses of Study Statute, the Statute on Student Conduct and any statutes relating to the particular qualifications being studied; see the Victoria University Calendar available in hard copy or under 'About Victoria' on the VUW home page at *www.victoria.ac.nz*.

Student and staff conduct

The Statute on Student Conduct together with the Policy on Staff Conduct ensure that members of the University community are able to work, learn, study and participate in the academic and social aspects of the University's life in an atmosphere of safety and respect. The Statute on Student Conduct contains information on what conduct is prohibited and what steps are to be taken if there is a complaint. For information about complaint procedures under the Statute on Student Conduct, contact the Facilitator and Disputes Advisor or refer to the statute on the VUW policy website at:

www.victoria.ac.nz/policy/studentconduct

The Policy on Staff Conduct can be found on the VUW website at:

www.victoria.ac.nz/policy/staffconduct

Academic grievances

If you have any academic problems with your course you should talk to the tutor or lecturer concerned; class representatives may be able to help you in this. If you are not satisfied with the result of that meeting, see the Head of School or the relevant Associate Dean; VUWSA Education Coordinators are available to assist in this process. If, after trying the above channels, you are still unsatisfied, formal grievance procedures can be invoked. These are set out in the Academic Grievance Policy which is published on the VUW website at:

www.victoria.ac.nz/policy/academicgrievances

Academic integrity and plagiarism

Academic integrity is about honesty – put simply it means *no cheating*. All members of the University community are responsible for upholding academic integrity, which means staff and students are expected to behave honestly, fairly and with respect for others at all times.

Plagiarism is a form of cheating which undermines academic integrity. The University defines plagiarism as follows:

> *The presentation of the work of another person or other persons as if it were one's own, whether intended or not. This includes published or unpublished work, material on the Internet and the work of other students or staff.*

It is still plagiarism even if you re-structure the material or present it in your own style or words.

> *Note: It is however, perfectly acceptable to include the work of others as long as that is acknowledged by appropriate referencing.*

Plagiarism is prohibited at Victoria and is not worth the risk. Any enrolled student found guilty of plagiarism will be subject to disciplinary procedures under the Statute on Student Conduct and may be penalized severely. Consequences of being found guilty of plagiarism can include:

- an oral or written warning,
- cancellation of your mark for an assessment or a fail grade for the course,
- suspension from the course or the University.

Find out more about plagiarism, and how to avoid it, on the University's website:

www.victoria.ac.nz/home/studying/plagiarism.html

Students with Impairments (see Appendix 3 of the Assessment Handbook)
The University has a policy of reasonable accommodation of the needs of students with disabilities. The policy aims to give students with disabilities the same opportunity as other students to demonstrate their abilities. If you have a disability, impairment or chronic medical condition (temporary, permanent or recurring) that may impact on your ability to participate, learn and/or achieve in lectures and tutorials or in meeting the course requirements, please contact the course coordinator as early in the course as possible. Alternatively, you may wish to approach a Student Adviser from Disability Support Services (DSS) to discuss your individual needs and the available options and support on a confidential basis. DSS are located on Level 1, Robert Stout Building:

telephone: 463-6070

email: *disability@vuw.ac.nz*

The name of your School's Disability Liaison Person is in the relevant prospectus or can be obtained from the School Office or DSS.

Student Support
Staff at Victoria want students to have positive learning experiences at the University. Each faculty has a designated staff member who can either help you directly if your academic progress is causing you concern, or quickly put you in contact with someone who can. In the Faculty of Humanities and Social Sciences the support contacts are **Dr Allison Kirkman, Murphy Building, room 407** and **Dr Stuart Brock, Murphy Building, room 312.** Assistance for specific groups is also available from the Kaiwawao Māori, Manaaki Pihipihinga or Victoria International.

Manaaki Pihipihinga Programme
This programme offers:
- Academic mentoring for all Māori & Pacific students at all levels of undergraduate study for the faculties of Commerce & Administration and Humanities & Social Sciences. Contact Manaaki-Pihipihinga-Progamme@vuw.ac.nz or phone 463 6015 to register for Humanities & Social Science mentoring and 463 8977 to register for mentoring for Commerce and Administration courses
- Postgraduate support network for the above faculties, which links students into all of the post grad activities and workshops on campus and networking opportunities
- Pacific Support Coordinator who can assist Pacific students with transitional issues, disseminate useful information and provide any assistance needed to help students achieve. Contact; Pacific-Support-Coord@vuw.ac.nz or phone 463 5842.

Manaaki Pihipihinga is located at: 14 Kelburn Parade, back court yard, Room 109 D (for Humanities mentoring & some first year Commerce mentoring) or Room 210 level 2 west wing railway station Pipitea (commerce mentoring space). Māori Studies mentoring is done at the marae.

Student Services
In addition, the Student Services Group (email: student-services@vuw.ac.nz) is available to provide a variety of support and services. Find out more at:

www.victoria.ac.nz/st_services/

VUWSA employs Education Coordinators who deal with academic problems and provide support, advice and advocacy services, as well as organising class representatives and faculty delegates. The Education Office (tel. 463-6983 or 463-6984, email at *education@vuwsa.org.nz*) is located on the ground floor, Student Union Building.

PART 1: HUMAN RIGHTS AS A CONTESTED PROJECT	
Week 1	Introduction to course
Week 2	Human rights: universal or Western?
Week 3	Universalism versus cultural relativity: the battleground of women's rights **Briefing paper due 12 noon Friday 27 July**
Week 4	Human rights: for order or for justice?
PART 2: HUMAN RIGHTS AS A PROBLEM FOR THE SYSTEM OF STATES	
Week 5	The clash of principles and purposes in the UN
Week 6	Humanitarian intervention **Briefing paper due 12 noon Friday 17 August**
Week 7	The "return of the native": internal challenges to the authority of the state
PART 3: GLOBALISATION AS A PROBLEM FOR HUMAN RIGHTS	
Week 8	Global poverty as an affront to human rights
Week 9	Property rights as human rights **Research essay due 12 noon Friday 21 September**
Week 10	Globalisation and the movement of people
PART 4: THE FUTURE OF HUMAN RIGHTS	
Week 11	Truth, reconciliation, and transitional justice
Week 12	Global social movements, "global civil society" and NGO advocacy

Course content and reading list:

NB: a number of the reading weeks below are split up into different reading topics. You will be assigned your specific topics in the Week 1 introduction. In weeks where the required reading is split YOU DO NOT NEED TO READ ALL REQUIRED READINGS – you will be reading ONE of the various strands of the topic. Additionally, "further readings" listed in each week are there to facilitate your investigation into specific topics when you come to writing your essays. THERE IS NO REQUIREMENT FOR YOU TO READ EVERY SINGLE READING ON THIS LIST!

PART 1: HUMAN RIGHTS AS A CONTESTED PROJECT

Week 1: Introduction to course
No reading – this is an introductory session laying out the aims, scope and approach to the course.

Week 2: Human rights: Universal or Western?
We start by engaging with the "real world" implications of a key but contested philosophical aspect of human rights: the universality of its professed values. A major philosophical and practical challenge to the "human rights project" is whether it can be understood as promoting a set of universally accepted values that just happen to have been developed most prominently in Western societies. Some critics even say that human rights is an instrument for Western domination over non-Western value systems. In fact, this challenge is not one that is peculiar to our "globalised" world, or to debates over the "war on terror", but is deeply inscribed in the history of human rights, a history that is often taken to primarily unfold within Europe and the West in general. In order to critically assess just how closely this history might be said to map onto a history of human rights we explore a) the Haitian Revolution – a slave revolution against French colonialism and coterminous with the French Declaration of the Rights of Man and the Citizen – and b) Islamic notions of rights and the possibility of an Islamic tradition of "human rights".

Questions:

   a) **Are Western values universal values? And is this question only of philosophical importance?**

   b) **Can we talk of universal values without situating them exclusively within Western civilization?**

   c) **What has been the contribution of people and societies outside of Europe to the development of a tradition of human rights?**

   d) **What might the similarities and differences between the French Declaration and the Haitian Declaration tell us about the global history of human rights?**

   e) **Are Islamic values antithetical to human rights?**

Required reading:

* **Tony Blair, "A battle for Global Values", *Foreign Affairs* Jan/Feb 2007 http://www.foreignaffairs.org/20070101faessay86106/tony-blair/a-battle-for-global-values.html**

* **Bikhu Parekh "Non-ethnocentric Universalism", in T. Dunne et al (eds), *Human Rights in Global Politics* (Cambridge University Press, 1999)**

Required reading on the Haitian Revolution:

* **Laurent Dubois, "An Enslaved Enlightenment: Rethinking the Intellectual History of the French Atlantic", *Social History* 31 (1), 2006**

Required reading on Islam and human rights:

* **Abdullah Ahmed An-Na'im, "Islamic Law, International Relations, and Human Rights: Challenge and Response", *Cornell International Law Journal* 317, 1987**

Further Reading on the Haitian Revolution:

* *Declaration of the Rights of Man and the Citizen* (1798) http://www.yale.edu/lawweb/avalon/rightsof.htm
* "Preliminary Declaration" in the *Constitution of Haiti* (1805) http://www.webster.edu/~corbetre/haiti/history/earlyhaiti/1805-const.htm
* Robin Blackburn, "Haiti, Slavery, and the Age of the Democratic Revolution", *William and Mary Quarterly* 63 (4), 2006
* John Garrigus, "White Jacobins, Black Jacobins: Bringing the Haitian and French Revolutions Together in the Classroom", *French Historical Studies* 23 (2), 2000
* Stephen Marks, "From the 'Single Confused Page' to the 'Decalogue for Six Billion Persons': The Roots of the Universal Declaration of Human Rights in the French Revolution", *Human Rights Quarterly* 20, 1998. *Note here the entire absence of the Haitian Revolution. How, if at all, does this affect his argument?*
* Robbie Shilliam, "What about Marcus Garvey? Race and the Transformation of Sovereignty Debate", *Review of International Studies* 32 (3), 2006. *Linking the French Revolution with the Haitian Revolution and forward to 20th century "pan-africanism".*

Further readings on Islam and human rights:

* Abdullah Ahmed An-Na'im, "Why Should Muslims Abandon Jihad? Human Rights and the Future of International Law", *Third World Quarterly* 27 (5), 2006
* Abdul Aziz Said, "Human Rights in Islamic Perspective", in Adamantia Pollis et al (Eds.), *Human Rights: Cultural and Ideological Perspectives* (London: Praeger, 1979)
* Bassam Tibi, "Islamic Law/Shari'a, Human Rights, Universal Morality and International Relations", *Human Rights Quarterly* 16 (2), 1994. *For Tibi, Islam and human rights don't get along so well..*

- Heiner Bielefeldt, "'Western' versus 'Islamic' Human Rights Conceptions? A Critique of Cultural Essentialism in the Discussion on Human Rights", *Political Theory* 28 (1), 2000
- Susan Waltz, "Universal Human Rights: The Contribution of Muslim States", *Human Rights Quartely* 26, 2004. *On the often forgotten involvement by Muslim states in the drafting of the UN human rights documents*

Further readings on the political philosophy of universal rights:
- Jack Donnelly, Universal human rights in theory and practice 2nd edition. (Ithaca: Cornell University Press, 2003) chs 4,5. *Making the claim that even amidst historical differences between societies, one can locate a basic universal understanding of human rights*
- Richard Falk , "Cultural Foundations for the International Protection of Human Rights", in A. An-Naim et al (eds), Human Rights in Cross-Cultural Perspectives (University of Penn Press, 1991). *An attempt to balance a universal understanding of human rights with the cultural bases of values*
- Michael Freeman, "The Philosophical Foundations of Human Rights", Human Rights Quarterly 16 (3), 1994 *On the problem of locating solid grounds for universal values*
- Peter Jones, Rights (London: Palgrave, 1994), ch.4 *On the relationship between natural rights and human rights*
- Makau Mutua, "Savages, Victims, and Saviors: The Metaphor of Human Rights", *Harvard International Law Journal* Winter, 2001. *Provocative article on the language of human rights as imperialist*
- Jerome Shestack, "The Philosophic Foundations of Human Rights", *Human Rights Quarterly* 20, 1998

Week 3: Universalism versus cultural relativity: the battleground of women's rights

The question of whether human rights are Western or universal in their constitution logically leads us to ask some further questions: How can any "rights" by universally applicable if all are derived from culturally specific value systems? But if all "rights" are culturally relative, how can we have any kind of ethical orientation to societies and value systems outside of our own? Must we be silent on what we believe to be suffering and injustice world-wide? Moreover, this problem becomes a very intimate one when we consider that, due to migration, even our own society might host a variety of different value systems. How do we develop an ethical orientation to cultural difference both within our society and between our society and others? Crucially, these challenges have been most vehemently debated in the arena of women's rights. A number of scholars have asked whether the "tradition" of female circumcision is an affront to human rights even if it is a cultural norm in another society. Others have wondered whether our toleration of different cultural traditions in our own society might encourage the oppression of women closer to home. And yet, even in Western societies the human rights tradition has at best ignored women's subordination and at worst excluded women's issues from the agenda…

Questions:
a) **Is "women's human rights" a contradiction in terms?**
b) **Is female circumcision an affront to human rights?**
c) **"The *hijab* is a sign of women's subordination and should be banned from public life." Do you agree?**
d) **Does the securing of women's human rights require the dismantling of "culture" and "tradition"?**
e) **Are women "victims" of male chauvinist cultural practices?**

Required readings:
- **Susan Okin, Is Multiculturalism Bad for Women? (Princeton University Press, 1999)**
- **Azizah Y. Al-Hibri, "Is Western Patriarchal Feminism Good for Third World/Minority Women?" in *Is Multiculturalism Bad for Women?* (Reply to Okin)**
- **Christine Walley, "Searching for 'Voices': Feminism, Anthropology, and the Global Debate over Female Genital Operations", *Cultural Anthropology* 12 (3), 1997**

Further readings on women's rights as human rights:
- Gayle Binion, "Human Rights: A Feminist Perspective", *Human Rights Quarterly* 17 (3), 1995 *Good on public/private and challenges to the state*
- Hilary Charlesworth, "Human Rights as Men's Rights", in Julie Peters et al (eds.), *Women's Rights / Human Rights: International Feminist Perspectives* (London: Routledge, 1995)
- Arvonne Fraser, "Becoming Human: The Origins and Development of Women's Human Rights", *Human Rights Quarterly* 21 (1999) *A History*
- Susan Okin, "Gender, the Public and the Private", A. Philips, *Feminism and Politics* (Oxford University Press, 1998)
- J. Oloka-Onyango and Sylvia Tamale, "'The Personal is Political', or Why Women's Rights are Indeed Human Rights: An African Perspective on International Feminism", *Human Rights Quarterly* 17 (4), 1995
- Amarti Sen, "Mary, Mary Quite Contrary", Feminist Economics 11 (1), 2005 *This article is on Mary Wollstonecraft*
- V. Spike Peterson & Laura Parisi, "Are Women Human? It's Not an Academic Question", in Tony Evans (ed), *Human Rights Fifty Years On: A Reappraisal* (Manchester University Press, 1998) *Another good political-philosophy discussion that goes through the different "generations" of human rights.*

Further readings on culture:
- Abdullahi Ahmed An-Na'im, "Problems of Universal Cultural Legitimacy for Human Rights", in An-Na'im & Deng (eds), *Human Rights in Africa: Cross-Cultural Perspectives* (Washington, 1990)
- Upendra Baxi, The Future of Human Rights 2nd ed (Oxford, 2006), ch.6
- Jane Freedman, "Women, Islam and Rights in Europe: Beyond a Universal/Culturalist Dichotomy", *Review of International Studies* 33, 2007
- Ratna Kapur, "The Tragedy of Victimization Rhetoric: Resurrecting the "Native" Subject in International/Post-Colonial Feminist Legal Politics", *Harvard Human Rights Journal* 15 (Spring), 2002
- Seyla Benhabib, "Sexual Difference and Collective Identities: The New Global Constellation", *Signs* 24 (2), 1999
- Marie Dembour, "Following the Movement of a Pendulum: Between Universalism and Relativism" in Jane Cowan et al (eds), *Culture and Rights: Anthropological Perspectives* (Cambridge University Press, 2001) *This article is on Female Circumcision*.
- Ellen Gruenbaum, "The Cultural Debate over Female Circumcision: The Sudanese Are Arguing This One Out for Themselves", *Medical Anthropology Quarterly* 10 (4), 1996
- Henriette Kalev, "Cultural Rights or Human Rights: The Case of Female Genital Mutilation", *Sex Roles,* 51 (5/6), 2004

Documents:
- United Nations (1979) *Convention on the Elimination of All Forms of Discrimination Against Women* http://www1.umn.edu/humanrts/instree/e1cedaw.htm
- United Nations (1993) *Declaration on the Elimination of Violence against Women* http://www1.umn.edu/humanrts/instree/e4devw.htm
- United Nations (1995) *Fourth World Conference on Women: Beijing Declaration* http://www.un.org/womenwatch/daw/beijing/platform/declar.htm

Week 4: Human rights: for order or for justice?

If the cultural roots of human rights can be contested, as can the content of these rights, we must also then consider who decides what kind of "rights" are universal and should be upheld by law. In other words, who decides that *they* legitimately promote the aspirations not of a particular group of people but of humanity as a whole? And who has the ability – and enjoys a social or political position - that allows them to speak authoritatively on these issues? These questions are crucial for our investigation of human rights because they bring into focus the problem of "representation". This is a complex issue, because nowadays it is by no means only the marginalized and oppressed who utter the language of human rights. Everyone does! From George Bush to Robert Mugabe, from diplomats and international organizations to NGOs and PR

departments of corporations: "human rights" is the *lingua franca* of ethics in general. This week we will consider whether human rights can be understood as the language of the marginalized and oppressed, or, instead, as the legal instrument of the powerful used to maintain order. To work through these issues we will further examine a) implications for the representation of suffering people when law is made the authoritative language of human rights, and b) efforts by social movements "from below" to represent their own understandings of human rights.

Questions:
   a) **How, for Bull, is order in world politics related to justice? And where might we locate human rights in his argument?**
   b) **Should we speak of human rights in the language of law or in the language of politics?**
   c) **"Human rights law is a tool of discipline and order, not freedom and justice." Discuss.**
   d) **Has the human rights discourse been constructed "top down" by elites or "from below" by social forces?**

Required readings:
   - **Hedley Bull, *The Anarchical Society: a Study of Order in World Politics* (London: Macmillan, 1977), ch.4**
   - **Tony Evans, "International Human Rights Law as Power/Knowledge", *Human Rights Quarterly* 27, 2005**
   - **Neil Stammers, "Social Movements and the Social Construction of Human Rights", *Human Rights Quarterly* 21, 1999**

Further readings:
   - Amy Bartholomew and Jennifer Breakspear, "Human Rights as Swords of Empire", *Socialist Register 2004*. *By reference to the current war on terror argues that human rights can be a crucial arena of struggle against US " imperialism".*
   - Gurminder Bhambra & Robbie Shilliam, "'Silence' And Human Rights", in Bhambra & Shilliam (eds), *Silencing Human Rights: Critical Engagements with the History, Theory and Contemporary Practices of a Contested Project* (Forthcoming)
   - William Carroll & Robert Ratner, "Master Frames and Counter-Hegmeony: Political Sensibilities in Contemporary Social Movements", *Canadian Review of Sociology and Anthropology* 33 (4), 1996
   - Alan Hunt, "Rights and Social Movements: Counter-Hegemonic Strategies", *Journal of Law and Society* 17 (3), 1990
   - Wendy Brown, "Freedom's Silences", in Robert Post (ed), *Censorship and Silencing: Practices of Cultural Regulation* (Getty Research Institute, 1998). *Complex but fascinating discussion on the relationship between speech and silence in issues of political representation.*
   - Joseph Slaughter, "A Question of narration: the voice in international human rights law" *Human Rights Quarterly* 192 1997. *A consideration of how the meaning of human rights have been determined by struggle using the torture of Algerians by colonial French officials in the 1950s as a case in point.*
   - Boaventura de Sousa Santos, *Toward a New Legal Common Sense: Law, Globalization and Emancipation* (London: Butterworths, 2002), ch.1 *A critical examination of the putative emancipatory power of law*

PART 2: HUMAN RIGHTS AS A PROBLEM FOR THE SYSTEM OF STATES

Week 5: The clash of principles and purposes in the UN
Of all institutions it is the United Nations that is most closely associated with the promotion and protection of human rights. In a number of charters that cover political, economic, social and cultural aspects, the UN has succeeded in codifying human rights as part of international law. And yet, at the core of the UN charter exists a clash between its professed principles and purposes that seek to promote human rights at the same time as preserving the sovereignty of states. Are these two claims – human rights and the rights of state

sovereignty – compatible, especially when it is state elites that are orchestrating at home - or supporting abroad - human rights abuses? Moreover, we must consider whether it has been the societal values of the most powerful states that have been privileged within the UN's codification of human rights. These issues require us to consider the fact that because humanity is fractured into a world of states we can never institutionalise human rights as part of a global form of governance. Or perhaps under Kofi Annan's stewardship the balance between state rights and human rights has shifted…

Questions:
    a) **Are the purposes and principles of the UN, as laid out in its Charter, compatible? Discuss with reference to the promotion of human rights.**
    b) **What issues in international politics since 1945 have affected the building of a framework of human rights law in the UN?**
    c) **Are human rights and state sovereignty incompatible as principles?**
    d) **To what extent has the UN managed to transform the vision of human rights into a reality?**
    e) **Is the UN progressing ever forward with the expansion of human rights?**

Required readings:
- **Articles 1 and 2 of the UN Charter (Chapter 1) http://www.un.org/aboutun/charter/**
- **Paul Gordon Lauren, *The Evolution of International Human Rights* (University of Penn State Press, 2003), ch.8**
- **Kofi Annan, "'In Larger Freedom': Decision Time at the UN", *Foreign Affairs* May/June, 2005**

Further readings:
- Charles Beitz, "What Human Rights Means", *Daedalus* 132 (1), 2003. *A prominent political-philosopher on the UN Declarations*
- Oona Hathaway, "Do Human Rights Treaties Make a Difference?", *Yale Law Journal* 111 (8), 2002. *Very detailed investigation*
- F. Hoffmann and F. Megret, "The UN as a Human Rights Violator? Some Reflections on the United Nations Changing Human Rights Responsibilities", *Human Rights Quarterly* 25 (2), 2003
- Stephen Marks, "From the 'Single Confused Page' to the 'Decalogue for Six Billion Persons': The Roots of the Universal Declaration of Human Rights in the French Revolution", *Human Rights Quarterly* 20k, 1998
- Ladan Rahmani-Ocora, "Giving the Emperor Real Clothes: The UN Human Rights Council", *Global Governance* 12, 2006. *On the new UN organ for the protection of human rights*
- Jason Ralph, "International Society, the International Criminal Court and American Foreign Policy", *Review of International Studies* 31, 2005. *On the latest institution to pursue international justice.*

On the new UN notion of "human security":
- Tara McCormack, "From State of War to State of Nature: Human Security and Sovereignty", in Chris Bickerton et al, *Politics without Sovereignty* (London: UCL Press, 2006). *A not so favourable view*
- G. Oberleitner "Human Security: A Challenge to International Law", *Global Governance* 11 (2) 2005. *A favourable view*
- UN, *Human Development Report 1994*, ch.2 http://hdr.undp.org/reports/global/1994/en/pdf/hdr_1994_ch2.pdf
- UN, A More Secure World: Our Shared Responsibility, 2004. Part 1 http://www.un.org/secureworld/report2.pdf

Documents:

For the International Bill of Human Rights as well as the core Human Rights instruments in the UN and their monitoring bodies, visit the Office of the United Nations High Commissioner for Human Rights: http://www.ohchr.org/english/law/

Week 6: Humanitarian intervention

Until recently, "sovereignty" in modern international law primarily referred to the right of self-determination, or at least, to the principle of non-interference. Article 2 of the UN charter effectively proclaims just such a principle. But increasingly, and in the UN especially, sovereignty is being talked of in terms of a "responsibility to protect" – not just one's own citizens, but citizens of other states also. This re-definition of sovereignty tends to place the responsibility to intervene morally above the right to self-determination especially with regards to states whose elites can no longer protect their populations or might even being abusing their own citizens. And yet, the core normative debate on humanitarian intervention pitches a "cosmopolitan" position, which claims that the rights of the individual are primary, again a "communitarian" position, which, if again supportive of individual rights, nevertheless claims that without the sovereignty of the state these rights are institutionally homeless. It seems, then, that the ethics of humanitarian intervention are not clear-cut. And we must carefully consider the ethical and practical aspects of when it is right and wrong to intervene.

Questions:
a) **Summarise the main points of contention in the cosmopolitan/communitarian debate.**
b) **"Human rights do not accord to individuals in the abstract, but to citizens in the concrete." Discuss with reference to the cosmopolitan/communitarian debate.**
c) **"The right of a community to self-determination is a human right. Hence intervention is wrong." Discuss.**
d) **When is it right and when is it wrong to intervene in another state's affairs?**

Required Readings:
- **David Morrice, "The Liberal-Communitarian Debate in Contemporary Political Philosophy and its Significance for International Relations",** *Review of International Studies* **26, 2000**
- **G. Evans, M. Sahnoun, "The Responsibility to Protect",** *Foreign Affairs* **81 (6) 2002**
- **P. Cunliffe, "Sovereignty and the Politics of Responsibility", in Bickerton et al (eds.),** *Politics without Sovereignty* **(UCL Press, 2006)**

Further Readings:
- Michael Glennon, "The New Interventionism: The Search for a Just International Law", *Foreign Affairs*, May/June 1999
- N. Grono, "Briefing - Darfur: The international community's failure to protect" *African Affairs* 105 (421): 2006
- Kimberly Hutchings, "The Possibility of Judgment: Moralizing and Theorizing in International Relations" *Review of International Studies* 18 (1), 1992 *A good critique of the philosophical assumptions behind the "cosmopolitan/communitarian debate".*
- Andrew Linklater, "The Harm Principle and Global Ethics", *Global Society*, 20 (3) 2006 *An attempt to lay out a thin cosmopolitanism based on the "harm principle".*
- O. O'Neill, "Bounded and Cosmopolitan Justice", *Review of International Studies* 26 (5), 2000
- Peter Spiro, "The New Sovereigntists: American Exceptionalism and its False Prophets", *Foreign Affairs* Nov/Dec, 2000 *A critique of US "unilateralism".*
- RBJ Walker "Citizenship After the Modern Subject" in Hutchings et al (eds), *Cosmopolitan Citizenship* (London: Macmillan, 1999). *A citique of the notion of citizenship as mobilised in the cosmopolitan/communitarian debate.*
- Michael Walzer "The Communitarian Critique of Liberalism", *Political Theory* 18 (1), 1990. *A very famous "communitarian".*

Week 7: The "return of the native": internal challenges to the authority of the state

Recent years have seen an increase in concerns over the rights of "indigenous peoples". The question of indigenous rights is challenging because human rights heavily relies upon the subject of rights being a citizen. In this sense, the realm of "rights" – reflected in the language of law - is implicitly assumed to be the public sphere of "civil society". And yet, historically, indigenous peoples who have attempted to retain their own value systems and social practices have been excluded from the public sphere. This is because social identities defined by personal affiliations have to be discarded upon political entry to the impersonalised individualist world of civil society. Should indigenous people be made to assimilate because their culture is composed of relations of personal hierarchy and thus against the fundamental principles of human rights? But then again, if we are talking about universal "human" rights, rather than a limited set of rights accorded to the individual only by virtue of him/her being a "citizen", why should anyone have to assimilate? Nevertheless, we should be careful not to assume that indigenous society is homogenous: "natives" are not all the same! The issue of indigenous rights is ultimately so important because it problematises the institutional form that human rights has almost exclusively taken in modernity – citizenship of a state. So while ethical debates on human rights have to engage with the issue of self-determination *among* states, they also have to seriously consider claims of self-determination emanating from *within* the territorial boundary of the state.

Questions:
a) **What are "people's rights", and to what extent, if at all, are they different from "human rights"?**
b) **In what ways might the right of indigenous peoples to self-determination be considered a challenge to state sovereignty?**
c) **Can a "native" have human rights?**
d) **"Indigenous peoples are the original inhabitants of a state and bear the original culture of that territory. Their rights are therefore prior to all others." Discuss.**

Required readings:
- **Philip Alston, "People's Rights: Their Rise and Fall", in Alston, *People's Rights* (Oxford University Press, 2001)**
- **Bice Maiguashca, "The Transnational Indigenous Movement in a Changing World Order", in Sakamoto Yoshkazu, (ed.), *Global transformation: Challenges to the State system* (New York: United Nations University Press, 1994)**
- **Adam Kuper, "The Return of the Native", *Current Anthropology* 44 (3), 2003 (*including responses*)**

Further readings on indigenous rights:
- Bob Clifford, ""Dalit Rights are Human Rights": Caste Discrimination, international Activism, and the Construction of a New Human Rights Issue", *Human Rights Quarterly* 29 (1), 2007
- Human Rights Watch, *Broken People: Caste Violence Against India's "Untouchables"* (London, 1999) http://www.hrw.org/reports/1999/india/ *On the important issue of "dalits"as the "untouchable caste" in India*.
- Benedict Kingsbury, "Reconciling Five Competing Conceptual Structures of Indigenous Peoples' Claims in International and Comparative Law", in Philip Alston, *People's Rights* (Oxford University Press, 2001). *Discussion of the problems of differing legal definitions o "indegnous", "minority", "human rights" and "self-determination".*
- Andrea Muehlebach, "What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism", *Identities: Global Studies in Culture and Power* 10, 2003
- H. Quane, "The Rights of Indigenous Peoples and the Development Process", *Human Rights Quarterly* 27 (2), 2005

- Craig Scott, "Indigenous Self-Determination and Decolonization of the Intenational Imagination: A Plea", *Human Rights Quarterly* 18, 1996. *Reproduction of an intervention by the author in the working group session for elaborating a draft declaration in the UN on rights of indigenous peoples.*
- Boaventura de Sousa Santos, *Toward a New Legal Common Sense: Law, Globalization and Emancipation* (Butterworths, 2002), pp.237-259. *Interesting critical analysis of the challenge to existing forms of politics presented by the notion of indigenous rights.*
- U.O. Umozurike, "The African Charter on Human and Peoples' Rights", *The American Journal of International Law* 77 (4), 1983. *Good overview of this historically important charter on "peoples' rights"*
- Carole Nagengast, "Women, Minorities, and Indigenous Peoples: Universalism and Cultural Relativity", *Journal of Anthropological Research* 53 (3), 1997

Documents:
- Organisation of African Unity (1981) *African (Banjul) Charter on Human and People's Rights* http://www.achpr.org/english/_info/charter_en.html
- International Labour Organisation (1991) *Convention Concerning Indigenous and Tribal Peoples in Independent Countries*. http://www1.umn.edu/humanrts/instree/r1citp.htm
- United Nations (1993) *Declaration on the Rights of Persons Belonging to National or Ethnic, or ReligiousLinguistic Minorities* http://www1.umn.edu/humanrts/instree/d5drm.htm
- United Nations (1994) *Draft Declaration on the Rights of Indigenous Peoples* http://www1.umn.edu/humanrts/instree/declra.htm

PART 3: GLOBALISATION AS A PROBLEM FOR HUMAN RIGHTS

Week 8: Global poverty as an affront to human rights

Usually, the most important human rights are understood to be negative political rights – i.e. freedom from torture, freedom from violence, freedom from arbitrary arrest. And this emphasis is reflected, for example, in the 1948 UN declaration of human rights. However, by the 1960s a political coalition, mainly from the "third world", had managed to place "economic rights" (among other issues) on the human rights agenda. This raised the possibility that the effects of poverty should be considered an affront to human rights, and by the 1980s this had become incorporated within a "right to development". The basic argument for this right was that without access to education, health care, sanitation, food, water, clothing and shelter, there could be no institutional basis for ensuring political and civil rights. And this was seemingly backed up by statistical evidence: where are political human rights most often abused? In poor countries! These issues not only beg the question of the duties of "developed" countries to the "less developed", but they also raise the more fundamental issue of whether it is right and necessary to politicise economic relations between people and between states. For at the same time as there has grown increased clamour for the politicisation of poverty as an affront to human rights, international institutions and many governments have increasingly taken up the neo-liberal philosophy that the prime *barrier* to development is *excess* political interference in market mechanisms…

Questions:
- **"Poverty renders all human rights inoperative" Do you agree?**
- **Is "development" a human right?**
- **Are rich countries morally responsible for helping to satisfy the needs of poor countries?**
- **What is international redistributive justice?**
- **Are markets morally free zones?**

Required readings:
- **Simon Caney, "International Distributive Justice",** *Political Studies* **49, 2001**
- **Louis-Edmond Pettiti & Patrice Meyer-Bisch, "Human Rights and Extreme Poverty", in Symonides, J. (ed.)** *Human Rights: New Dimensions and Challenges* **(Dartmouth: Ashgate, 1998)**
- **Thomas Nagel, "The Problem of Global Justice",** *Philosophy and Public Affairs* **33 (2), 2005**

Further readings:
- Katherine Eddy, "On revaluing the Currency of Human Rights", *Centre for the Study of Social Justice Working Paper Series* SJ003, 2006. *Defence of a "welfare" approach to distributive justice*
- Pablo Gilabert, "The Duty to Eradicate Global Poverty: Positive or Negative?", *Ethical Theory and Moral Practice* 7, 2004. *A sympathetic critique of Pogge.*
- Daniel Hausman, "Are Markets Morally Free Zones?" *Philosophy and Public Affairs* 18 (4), 1989
- Philip Nel, "The Return of Inequality", *Third World Quarterly* 27 (4), 2006 *Recent review of literature on growing inequality, including some figures*
- James Nickel, "Poverty and Rights", *The Philosophical Quarterly* 55 (220), 2005. *On economic and social rights as more than just the right to "subsistence".*
- Thomas Pogge, "World Poverty and Human Rights", Ethics and International Affairs 19 (1), 2005. A summary of an influential position on distributive justice.
- Amartyi Sen, *Development as Freedom* (Oxford, 1989), ch.4 *The importance of alleviating poverty for the pursuit of human rights*
- Henry Shue, *Basic Rights, 2nd Ed* (1996), pp.131-180.
- Various responses to Nagel in *Philosophy & Public Affairs*, 34 (2), Spring 2006

Relative documents:
- United Nations (1966), *International Covenant on Economic, Social and Cultural Rights* http://www.ohchr.org/english/law/cescr.htm
- United Nations (1986), *Declaration on the Right to Development* http://www.unhchr.ch/html/menu3/b/74.htm
- United Nations (1995), *Copenhagen Declaration on Social Development* http://www.un.org/esa/socdev/wssd/agreements/index.html
- UNDP (2002) Human Development Report: Human Rights and Human Development (New York: UN). Available online at http://www.undp.org/hdr2000/english/HDR2000.html
- International Labour Organisation (ILO) (1998), *Declaration on Fundamental Principles and Rights at Work* http://www.ilo.org/dyn/declaris/DECLARATIONWEB.INDEXPAGE
- World Bank (2006), *World Development Report 2006: Equity and Development* http://go.worldbank.org/UWYLBR43C0

Week 9: Property Rights as Human Rights

Property rights have been a key issue of contestation in the debates on poverty reduction. It is often assumed by economists that private property is the natural condition of property ownership. At the very least, it is considered the most optimal form of property rights for the creation of wealth. Many commentators have even gone so far as to claim that the guarantee of private property rights in law is a crucial pillar of human rights law in general. After all if we, as individuals, can legally own property privately and absolutely, then no political interest can rob us of what is rightfully ours. However, some scholars have argued that private property is not a natural condition but one historically created with the birth of capitalism. Furthermore, they claim that the privatisation of property in many non-European countries was historically effected by colonial edict, and that this act was part of an imperial movement that effectively denied peoples and communities access to – and self-governance over – their means of livelihood. Some even say that colonialism continues in an expanded and intensified form through processes of globalisation. For nowadays, the promotion of private property rights emanates most forcefully from international institutions

(such as the World Trade Organization) that charge governments with the responsibility to guarantee these rights. And if we believe that there is a "right to development", then the global privatisation of property has either radically progressed the human rights agenda or provided a huge setback for this agenda. But then, of course, all this talk of property rights might just be a narrowly economic issue and have nothing to do with human rights at all…

Questions:
- **Is private property a necessary pillar of human rights law or part of (neo-)colonial rule?**
- **Who should property rightfully belong to?**
- **How might the stewardship of natural resources be understood as an issue of prime importance for human rights?**
- **"Globalisation means that we can no longer address economic injustices by appealing to our own governments". Do you agree?**

Required readings:
- **Hernando de Soto, *The Mystery of Capital* (London: Black Swan, 2001), ch.3,5**
- **Midnight Notes Collective, "The New Enclosures" 1991: www.commoner.org.uk/02midnight.pdf**
- **Jane Kelsey, "Old Wine in New Bottles: Globalisation, Colonisation, Resource Management and Māori", in M. Kawharu (ed), *Whenua: Managing Our Resources* (Auckland: Reed, 2002)**

Further readings:
- Amanda Alexander, "Rights beyond the urban-rural divide. South Africa's Landless People's Movement and the creation of a landless subject", in Shilliam and Bhambra, *Silencing Human Rights* (Forthcoming, 2007). *On the post-apartheid contestation over land reform.*
- J. Chapman, "The Human Rights Implications of Intellectual Property Protection", *Journal of International Economic Law 5 2002*
- T. Evans, "If Democracy, then Human Rights?", *Third World Quarterly* 22 (4) 2001. *Claims that democracy promotion has more to do with global economic interests than with delivering human rights to the poor and excluded.*
- T. Hayward, "Global Justice and the Distribution of Natural Resources", *Political Studies* 54 (2), 2006 *Political theory on natural resource allocation and distribution.*
- Human Rights Watch, *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities* (1999) http://www.hrw.org/reports/1999/nigeria/
- John Locke, *Two Treaties on Government* (numerous editions), ch.5 "Of Property". *Extremely influential classical liberal philosopher on the rights of private property. Note especially the argument about "in the beginning all the world was America".*
- Karl Marx, "On the Jewish Question" (various editions): http://www.marxists.org/archive/marx/works/1844/jewish-question/index.htm *Marx's famous argument on the limits of "bourgeois" rights and political freedom.*
- P. Nadasdy, ""Property" and aboriginal land claims in the Canadian Subarctic: Some theoretical considerations", *American Anthropologist* 104 (1), 2002
- Robert Nozick, *Anarchy, State and Utopia* (various editions), ch.7. *A very influential "libertarian" philosopher on property rights.*
- Christopher Pierson, "Marxism and Rights", in M. Cowling and L. Wilde (Eds), *Approaches to Marx* (Open University Press, 1989). *Good short summary of the Marxist engagement with property and rights.*
- Ranginui Walker, "The Treaty of Waitangi in the Postcolonial Era", in Belgrave et al (eds.), *Waitangi Revisited* (Oxford University Press, 2005) *Detailed history of Maori struggles against resource appropriation.*

Documents:
- Ogoni *Bill of Rights* (1990) *See article above on Nigeria, Oil and Human Rights abuses*
  http://www.waado.org/nigerdelta/RightsDeclaration/Ogoni.html
- UN *High Commissioner for Human Rights*, "Intellectual Property and Human Rights", 2001:
  http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.SUB.2.RES.2001.21.En?Opendocument
- UN *Global Compact* (regarding business and human rights) http://www.unglobalcompact.org/
- *Waitangi Tribunal*: http://www.waitangi-tribunal.govt.nz/
- World Bank, "Pro-Human Rights Growth Policies", Oct 2006:
  http://www1.worldbank.org/devoutreach/october06/article.asp?id=381

Week 10: Globalisation and the movement of people

Globalisation is widely understood as the free flow of goods, capital, information and people across national borders. In truth, however, only certain kinds of people can move freely, and for the vast majority of humanity migration is still fraught with significant political, social and economic obstacles. Indeed, at the same time as our world of states has apparently become globalized, immigrants to the West have become subject to increased government scrutiny and surveillance,. And additionally, the public mind-set in many Western countries has seen a return of the "fear" of the foreigner. All these issues might be compounded by the fact that, according to some observers, the world, under the forces of globalisation, has become geographically divided into "zones of life" (the EU, the US etc) and "zones of death" (Sudan, Iraq, DRC etc). These issues seriously impact on the idea of universal human rights. If illegal immigrants and asylum seekers are not "yet" citizens of the societies they reach, how can their human rights be guaranteed? The "liminal" juridical condition of these people is compounded by popular discourses in their countries of destination that see the immigrant as a "free rider", criminal, or even terrorist. Such challenges to the universal reach of human rights are especially prevalent in the EU. While the EU likes to see its ethical place in the world as the defender of human rights, it is erecting juridical and very concrete walls and fences to stem the flow of migrants.

Questions:
- **In what ways does global migration provide challenges for the universal application of human rights?**
- **"Illegal migrants and asylum seekers cannot be protected by human rights because they are not proper citizens". Discuss**
- **Is "Fortress Europe" a barrier to universal human rights?**
- **Legally encoding the rights of asylum seekers is pointless until the negative public perception of migrants changes." Do you agree?**

Required readings:
- **P.A. Taran, "Human Rights of Migrants: Challenges of the New Decade",** *International Migration* **38 (6), 2000**
- **Colin Harvey, "Dissident Voices: Refugees, Human Rights and Asylum in Europe", in** *Social and Legal Studies* **9, 2000**

Further readings:
- Etienne Balibar, "Outlines of a Topography of Cruelty: Citizenship and Civility in the Era of Global Violence", *Constellations* 8 (1), 2001 *Puts the refugee question in the context of a globalisation process a world divided between zones of life and zones of death.*
- S. Benhabib, "The Law of Peoples, Distributive Justice, and Migrations", Fordham Law Review 72 (5), 2004 On the inadequacies of theories of distributive justice that don't take migration into account.
- Erika Feller, "The Evolution of the International Refugee Protection Regime", *Journal of Law and Policy* 5 2001 *Good overview of the history of the UN mechanisms to protect refugees.*

- M. Ibrahim, "The Securitization of Migration: A Racial Discourse", *International Migration* 43 (5), 2005 *On the effects of the increasing linking by Western states of migrants, terrorism and crime.*
- V.A. Leary, "Globalization and Human Rights", in J. Symonides (ed), *Human Rights: New Dimensions and Challenges* (Ashgate, 1998)
- Randolph Persaud, "Power, Production and Racialization in Global Labor Recruitment and Supply", in Gill and Bakkar (eds.), *Power, Production and Social Reproduction* (Routledge, 2003) *On the historical links between racism and the forging of a global labour supply for capitalism.*
- M. Satterthwaite, "Women migrants' rights under international human rights law", *Feminist Review* 77 2004
- Martha Scarpellino, "'Corriendo': Hard Boundaries, Human Rights and the Undocumented Immigrant", *Geopolitics* 12 2007. *On Mexican undocumented migrants in the USA.*
- R. Thomas, "Biometrics, International Migrants and Human Rights", *European Journal of Migration and Law* 7 (4), 2005

Documents and Websites:
- ILO *International Migration Programme* http://www.ilo.org/public/english/protection/migrant/
- Office of the UN High Commissioner for Human Rights, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* 1990: http://www.ohchr.org/english/law/cmw.htm
- UN High Commissioner for Refugees: http://www.unhcr.org
- *UN World Conference Against Racism and Xenophobia*, 2001: http://www.un.org/WCAR/

PART 4: THE FUTURE OF HUMAN RIGHTS

Week 11: Truth, reconciliation, and transitional justice

The South African Truth and Reconciliation Commission (TRC) and the Rwandan *Gacaca* ("traditional" village) courts are both novel and unprecedented attempts to deal with mass and gross violations of human rights, the former addressing apartheid, the later, the 1994 genocide. Both are attempts to enact "transitional" justice, that is to say a form of justice that attempts to come to terms with an incredibly brutal recent past from which all surviving members of groups and parties still inhabit the same society. In the Rwandan case the focus is on retribution – the accusation, trial and if necessary punishment of those who took part in the genocide. Conversely, in the South African case the focus is on reconciliation through the public revealing of violent acts and voicing of suffering. Does a focus on justice as retribution simply lead to more inter-communal violence in the near future, or is a focus on reconciliation effectively an abdication of the pursuit of justice in order to ensure an orderly society in the short time? Who represents the "truth" in these commissions and courts, and to what extent can the suffering represent their own experiences? Finally, what is the complicity of the international community in the successes and failures of these novel experiments in the pursuit of human rights?

Questions:
- **What is the purpose of "transitional justice" and what are the dilemmas of this form of justice?**
- **Is "reconciliation" a goal that promotes the need for political order over demands for justice?**
- **Are gross abuses of human rights in Africa best dealt with through Western or African juridical institutions? Discuss with reference to *Gacaca*.**
- **"*Ubuntu* forms the basis of an African understanding of human rights and as such has been indispensable in transforming post-apartheid South Africa into a rights-based society". Do you agree?**
- **Does public testimony on past injustices heal "the wounds of a nation"?**

Required reading for all:
- **Rama Mani, "Rebuilding an Inclusive Political Community After War",** *Security Dialogue* **36 (4), 2005**

Required readings on the South African Truth and Reconciliation Commission (TRC):
- **Richard Wilson,** *The Politics of Truth and Reconciliation in South Africa* **(Cambridge University Press, 2001), ch.1**
- **Yazir Henri, "Reconciling Reconciliation: A Personal and Public Journey of Testifying Before the South African Truth and Reconciliation Commission", in P. Gready (ed),** *Political Transition* **(Pluto Press, 2003)**

Required readings on the Rwandan Genocide:
- **Peter Uvin and Charles Mironko, "Western and Local Approaches to Justice in Rwanda",** *Global Governance* **9, 2003**
- **Erin Daly, "Between Punitive and Reconstructive Justice: The Gacaca Courts in Rwanda",** *New York University Journal of International Law and Politics* **355, 2002**

Further readings in general:
- Rajeev Bhargava, "Restoring Decency to Barbaric Societies", in Rotberg and Thompson (eds.), *Truth v. Justice: The Morality of Truth Commissions* (Princeton, 2000). *A political theory approach to the problems of truth commissions acting as transitional mechanisms towards lawful societies.*
- Juan Mendez, "National Reconciliation, Transnational Justice, and the International Criminal Court", *Ethics & International Affairs*, Volume 15 (1), 2001. *Good article addressing the impact of the new UN mechanisms for pursuing crimes against humanity.*
- Charles Lerche, "Truth Commissions and National Reconciliation: Some Reflections on Theory and Practice", *Peace and Conflict Studies* 7 (1), 2000
- Jonathan Tepperman, "Truth and Consequences", *Foreign Affairs* 81 (2), 2002. *Overview of the limits and potentials of truth commissions.*

Further readings on the South African TRC:
- Penny Enslin and Kai Horsthemke, "Can *ubuntu* provide a model for citizenship education in African democracies?", *Comparative Education* 40 (4), 2004
- Mahmood Mamdani, "Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa", *Diacritics* Fall-Winter, 2002. *Claims that political compromise turned into moral compromise and robbed Black South Africans of justice.*
- Fiona Ross, "Speech and silence: Women's testimony in the first five weeks of public hearings of the TRC", in Das et al. (eds), *Remaking a World: Violence, Social Suffering and Recovery* (University of California Press, 2001). *On the gendered nature of the truth hearings.*
- Paul van Zyl, "Dilemmas of Transitional Justice: The Case of South Africa's Truth and Reconciliation Commission", *Journal of International Affairs* 52 (2), 1999. *A sympathetic assessment of the TRC.*

Further readings on the Rwandan Genocide:
- Michael Barnett, "The UN Security Council, Indifference, and Genocide in Rwanda", Cultural Anthropology 12 (4), 1997. *A personal account of the UN's effective complicity in the genocide.*
- Human Rights Watch, "Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath", 1996: http://www.hrw.org/reports/1996/Rwanda.htm
- Mahmood Mandani, "From Conquest to Consent as the Basic of State Formation: Reflections on Rwanda", *New Left Review* 216, 1996. *An excellent historical contextualisation of the genocide.*
- Barbara Oomen, "Donor-Driven Justice and its Discontents: The Case of Rwanda", *Development and Change* 36 (5), 2005. *A negative view on Gacaca.*
- Filip Reyntjens, "Post-1994 Politics in Rwanda: Problematising "Liberation" and "Democratization", *Third World Quarterly* 27 (6), 2006. *An "up-to-date" on the situation in Rwanda.*

- Aneta Wierzynksa, "Consolidating Democracy through Transitional Justice: Rwanda's Gacaca Courts", *New York University Law Review* 1935, 2004. *A positive view on Gacaca.*

Documents and websites:
- The Committees of the South African TRC: http://www.doj.gov.za/trc/trccom.htm
- South African *Promotion of National Unity and Reconciliation Act*, 1995 http://www.doj.gov.za/trc/legal/act9534.htm
- *Rome Statute on the International Criminal Court:* http://www.un.org/law/icc/statute/romefra.htm
- *International Criminal Tribunal for Rwanda:* http://69.94.11.53/default.htm

Week 12: Global social movements, "global civil society" and NGO advocacy

Do rights have to be pursued and justice guaranteed only through state institutions? With the emergence, post-Cold War of the phenomenon of "global civil society" populated by *non*-governmental organizations (NGOs), compounded with the growth of "global justice movements" after 1999, this assumption no longer automatically holds. Indeed, many participants in both of these "organizations" claim that there now truly exists the possibility of enjoying global justice that is not tainted by the interests of the powerful to keep order in the world. And yet despite their professed globality and universality, these new forms of political organization must be interrogated with regards to the abiding question of representation. Is, for example, global civil society a truly inclusive and representative sphere, or does it still ultimately represent the reformist sentiments and interests of the powerful? Is the "global justice movement" a truly radical form of political representation that is horizontal and pluralistic instead of hierarchical and singular as were, for example, the old leftist parties? In sum, are these phenomena indicative of a *radical* transformation in the very nature of (world) politics that finally allows "truth" to be spoken to "power"?

Questions:
- **How have transnational advocacy networks impacted upon state power?**
- **"Universal rights can only be meaningfully promoted and safeguarded by transnational advocacy networks. " Discuss.**
- **Is "global civil society" an inclusive or exclusive arena?**
- **What is the "Postmodern Prince", and what issues of representation does it raise?**
- **Are non-governmental organizations (NGOs) beyond state control?**

Required reading for all:
- **M. Keck and K. Sikkink, "Transnational Advocacy Networks in International and Regional Politics", *International Social Science Journal* 51 (1), 1999**

Required readings on global social movements:
- **Stephen Gill, "Towards a Postmodern Prince?", *Millennium* 29 (1), 2000**
- **Samir Amin, "Is the World Social Forum of Use for Popular Struggles?" (Centre for Civil Society, University of Kwazulu-Natal, 2007) http://www.ukzn.ac.za/ccs/default.asp?2,40,5,1234**

Required readings on "global civil society":
- **J. Keane, "Global Civil Society?", in Aheier, Glasius and Kaldor (eds.), *Global Civil Society 2001*, (Oxford University Press, 2001)**
- **L. Amoore and P. Langley, "Ambiguities of Global Civil Society", *Review of International Studies* 30 (1), 2004**

Required readings on NGO advocacy:
- **D. Bell and J. Carens, "The Ethical Dilemmas of International Human Rights and Humanitarian NGOs: Reflections on a Dialogue Between Practitioners and Theorists",** *Human Rights Quarterly* **26 (2), 2004**
- **P. Kilby**, **"Accountability for Empowerment: Dilemmas Facing Non-Governmental Organizations",** *World Development* **34 (6), 2006**

Further readings on global social movements:
- C. Eschle, "Skeleton Women: Feminism and the Anti-Globalisation Movement", *Signs: Journal of Women in Culture and Society* 30 (3) 2005
- Arturo Escobar, "Beyond the Third World: Imperial Globality, Global Coloniality and Anti-Globalisation Social Movements", *Third World Quarterly* 25 (1), 2004 *A positive take on the potential of the "anti-globalisation movement".*
- Michael Hardt, "Porto Alegre: Today's Bandung?", *New Left Review* 14 2002 *Influential leftist scholar on the World Social Forum as a new kind of social movement.*
- S. Mattiace, "Representation and Rights: Recent Scholarship on Social Movements in Latin America", *Latin American Research Review* 40 (1), 2005. *A good overview of this literature.*
- Fiona Robinson, "Human Rights and the Global Politics of Resistance: Feminist Perspectives", *Review of International Studies* 29, 2003
- Neil Stammers, "Social Movements and the Challenge ot Power", in M. Shaw (ed), *Politics and Globalisation* (Routledge: London, 1999) *Very good overview of the analytical issues involved in understanding social movements and their relation to power.*

Further readings on "global civil society":
- H. Anheier, M. Glasius and M. Kaldor, "The State of Global Civil Society: Before and After September 11" Glasius et al (eds.), *Global Civil Society 2002*, (Oxford University Press, 2002)
- David Held, "Cosmopolitanism: Globalisation Tamed?", *Review of International Studies* 29, 2003 *Influential political theorist on the topic of "cosmopolitan democracy".*
- S. Hopgood, "Reading the Small Print in Global Civil Society: The Inexorable Hegemony of the Liberal Self", *Millennium* 29 (1) 2000 *Critique of the essentially liberal character of "global civil society".*
- Richard Price, "Transnational Civil Society and Advocacy in World Politics," *World Politics*(2003), 579-606. *Overview of recent literature on Global Civil Society networks.*
- Mary Kaldor, "A Decade of Humanitarian Intervention: The Role of Global Civil Society" in in Glasius et al (eds.), *Global Civil Society 200!*, (Oxford University Press, 2001)
- Martin Shaw, "The Global Transformation of Social Science", in Glasius et al (eds.), *Global Civil Society 2002*, (Oxford University Press, 2002) *On the challenge that global civil society presents for analytical terms in the social sciences.*

Further readings on NGO advocacy:
- Upendra Baxi, *The Future of Human Rights* (Oxford, 2006), ch.8 *Complex but fascinating argument on NGOs, globalisation and the "marketization" of human rights.*
- D. Chandler, "The Road to Military Humanitarianism: How the Human Rights NGOs Shaped a New Humanitarian Agenda", *Human Rights Quarterly* 23 (3), 2001 *How humanitarian NGOs have unintentionally allowed the human rights agenda to be mobilised for state interests.*
- D. Rieff, "Humanitarianism in Crisis", *Foreign Affairs* 81 (6), 2002 *On the "politicisation of aid" and the difference between US/UK NGOs and French NGOs especially MSF.*
- B. Steele and J. Amoureux, "NGOs and Monitoring Genocide: The Benefits and Limits to Human Rights Panopticism", *Millennium* 34 (2), 2005. *On the positives and negatives of NGOs as an extension of Western state power, using Rwanda and East Timor as examples.*
- J. Tong, "Questionable Accountability: MSF and Sphere in 2003", *Disasters* 28 (2), 2004. *On the difficulties of the project to codify minimum standards and accountability for humanitarian NGOs.*

Documents and websites:

- *The Sphere Project: Humanitarian Charter and Minimum Standards in Disaster Response*
  http://www.sphereproject.org/
- *World Social Forum* Statement of Principles:
  http://www.forumsocialmundial.org.br/main.php?id_menu=4&cd_language=2
- Report of the Commission on Global Governance, "Our Global Neighbourhood", 1995:
  http://www.libertymatters.org/globalgovernance.htm