

## Course Outline

**COURSE:** LAWS 4604B - International Human Rights Protection

**PREREQUISITES:** 4<sup>th</sup> year Honours standing

**TERM:** Fall 2007

**CLASS: Day & Time:** Thursdays, 2:35-5:25 pm  
**Room:** 208 University Commons

**INSTRUCTOR:** Professor Christiane Wilke

**CONTACT:** **Office:** D485 Loeb  
**Office Hrs:** Mondays 2-4 & by appointment  
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Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre to complete the necessary *letters of accommodation*. The student must then make an appointment to discuss their needs with the instructor at least two weeks prior to the first class or ITV test. This is to ensure sufficient time is available to make the necessary accommodation arrangement. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is November 9, 2007 for December examinations. With regard to accommodations for religious obligations and pregnancy, please see <http://www.carleton.ca/law/accommodations.htm>.

**COURSE OBJECTIVES & CONTENT:**

Human rights are constantly invoked, allegedly violated, studied in seminars, protected, and celebrated – but what are human rights and what do they do? How do people think about “their” rights, and how do they use them? How have different human rights movements evolved? How have human rights developed from the rights of white propertied males to the rights of all human persons? And what does it mean to be such a person? This seminar focuses on understanding the strengths and limits of international human rights in three contentious contexts: the enforced disappearances in Argentina, HIV/AIDS in South Africa, and torture and mistreatment in the context of the ‘war on terror.’ We will ask why claims were made in the language of human rights and we will examine the practical and conceptual effects of casting claims about injustice in terms of human rights. The case studies are complemented by theoretical readings and offer examples of contentious issues in contemporary human rights.

**COURSE MATERIAL:**

The course pack LAWS 4604.B is available from:

Octopus Books, 116 Third Ave, off Bank Street. (613)233-2589, <http://www.octopusbooks.org>.

*A copy of the same course pack is on reserve at the library. You may take it out to read and photocopy, but please make sure to put all items back in the same order.*

Please note the availability indications in the outline next to the readings. Materials marked [*pdf*] or [*WebCT*] are available through WebCT.

**EVALUATION PROCEDURES:**

- **Class presentation and participation: 15%**
- **Three response papers: 15% each (45% combined)**
- **Final paper: 40%**
- **In order to pass the class, you need to complete all assignments (minus one of the response papers).**
  
- **Class presentation and participation:** This is a seminar class with challenging readings. Discussing these texts on the basis of short (5 min.) class presentations will allow us reach a better understanding of the theories and their problems. If everyone brings their own critical perspectives on the texts to the table, we will be able to gauge the range of possible interpretations and critiques of the texts. Thus, everyone's active participation is crucial for the success of the class. Participation presumes, of course, that you have read the texts carefully.
  
- **Critical response papers** offer a critical analysis of (or response to) key arguments from assigned readings. You choose the readings to which you will respond in about 4-5 pages (double-spaced). Critical response papers are due at the beginning of the class for which the reading is assigned. **No late response papers are accepted.** The first response paper has to be submitted no later than **September 27<sup>th</sup>**. The second response paper is due no later than **October 25<sup>th</sup>**. The third response paper is due no later than **November 22<sup>nd</sup>**. **You cannot write a response paper on the same text that you are giving a presentation on.**
  
- The **final research paper** challenges you to develop a more sustained argument about the readings on 12-15 pages (double-spaced). The final paper is due on **December 3<sup>rd</sup>**. Over the course of the term, you will have to submit an initial **paper topic** and a **paper draft**. Those are **mandatory** but not graded. **I will not mark research papers from students who have not submitted paper drafts.**

**SCHEDULE:****1. September 6<sup>th</sup>****Introduction: Thinking about Human Rights**

The Universal Declaration of Human Rights (1948)

The South African Freedom Charter (1955)

**2. September 13<sup>th</sup>****The International Human Rights System: Overview**

Antonio Cassese, *International Law*, 2<sup>nd</sup> ed. (Oxford: Oxford University Press, 2005), 375-398. [course pack]

Costas Douzinas, *The End of Human Rights*, (Oxford: Hart Publishing, 2000), 1-21. [course pack]

Jack Donnelly, "The Social Construction of Human Rights," in Tim Dunne and Nicolas Wheeler, ed., *Human Rights and Global Politics* (Cambridge: Cambridge University Press, 1999), 71-102. [course pack]

**3. September 20<sup>th</sup>****Human Rights, States, and Citizenship**

Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt Brace & Co., 1973 [1951]), 290-302. [course pack]

Richard Bernstein, "Hannah Arendt on the Stateless," *parallax*, Vol. 11 (2005), 46-60. [pdf]

Gershon Shafir, "Citizenship and Human Rights in an Era of Globalization," in Alison Brysk and Gershon Shafir, ed., *People Out of Place: Globalization, Human Rights, and the Citizenship Gap* (New York: Routledge, 2004), 11-25. [course pack]

Liisa Malkki, "Citizens of Humanity: Internationalism and the Imagined Community of Nations," *Diaspora: A Journal of Transnational Studies*, Vol. 3 (1994), 41-68. [course pack]

**Recommended:**

Catherine Dauvergne, "Citizenship with a Vengeance," *Theoretical Inquiries in Law*, Vol. 8, No. 2 (2007), Article 6. <[www.bepress.com/cgi/viewcontent.cgi?article=1158&context=til](http://www.bepress.com/cgi/viewcontent.cgi?article=1158&context=til)>.

Serena Parekh, "A Meaningful Place in the World: Hannah Arendt on the Nature of Human Rights," *Journal of Human Rights*, Vol. 3 (2004), 41-53.

Seyla Benhabib, *The Rights of Others* (Cambridge: Cambridge University Press, 2004).

**4. September 27<sup>th</sup>****Human Rights and the Human Rights Movement: Resisting Military Dictatorship in Argentina**

Ruth Jamieson and Kieran McEvoy, "State Crimes by Proxy and Juridical Othering," *British Journal of Criminology*, Vol. 45 (2005), 504-527. [pdf]

Eric Stener Carlson, *I Remember Julia: Voices of the Disappeared* (Philadelphia: Temple University Press, 1996), 7-25. [course pack]

Alison Brysk, *The Politics of Human Rights in Argentina* (Stanford: Stanford University Press, 1994), 23-62. [course pack]

Recommended:

Luis Roniger & Mario Sznajder, *The Legacy of Human Rights Violations in the Southern Cone: Argentina, Chile, and Uruguay* (Oxford: Oxford University Press, 1999).

Carlos Nino, *Radical Evil on Trial* (New Haven: Yale University Press, 1996).

Diana Taylor, *Disappearing Acts: Spectacles of Gender and Nationalism in Argentina* (Durham: Duke University Press, 1997).

[The first response paper has to be submitted in or prior to the class of September 27<sup>th</sup>]

**5. October 4<sup>th</sup>**

**Reporting on Human Rights and Forced Disappearances**

Richard Wilson, "Representing Human Rights Violations: Social Contexts and Subjectivities," in Richard Wilson, ed., *Human Rights, Culture, and Context* (London: Pluto, 1997), 134-160. [course pack]

National Commission on the Disappearance of Persons (CONADEP), *Nunca Mas* (1984), selections. [WebCT]

Juan Mendez, "Accountability for past human rights violations: contributions of inter-American organs of protection," *Social Justice* (1999), No. 4, 84-106. [WebCT]

Inter-American Commission on Human Rights, Report on Argentina (28/92):

<http://www.cidh.oas.org/annualrep/92eng/Argentina10.147.htm> [WebCT]

Human Rights Watch, *Argentina: Reluctant Partner*, <[www.hrw.org/reports/2001/argentina/index.html](http://www.hrw.org/reports/2001/argentina/index.html)>, selections. [WebCT]

Human Rights Watch, *Argentina: Amnesty Law Struck Down*.

<<http://hrw.org/english/docs/2005/06/14/argent11119.htm>>. [WebCT]

Recommended:

Reed Brody & Felipe Gonzales, "Nunca Mas: An Analysis of International Instruments on Disappearances," *Human Rights Quarterly*, Vol. 19 (1997), 365-405.

**6. October 11<sup>th</sup>**

**The Subject(s) of Human Rights: Rethinking Gender and Culture in Human Rights**

Costas Douzinas, *The End of Human Rights* (Oxford: Hart Publishing, 2000), 229-240. [course pack]

Hilary Charlesworth and Christine Chinkin, "The Gender of *Jus Cogens*," *Human Rights Quarterly*, Vol. 15 (1993), 63-76. [pdf]

Ratna Kapur, *Erotic Justice: Law and the New Politics of Postcolonialism* (London: Glasshouse Press, 2005), 137-176. [course pack]

Recommended:

Shelley Wright, *International Human Rights, decolonisation and globalisation: becoming human* (London &

New York: Routledge, 2001).

**7. October 18<sup>th</sup>****Human Rights in South Africa**

The Freedom Charter (1955), <[www.anc.org.za/ancdocs/history/charter.html](http://www.anc.org.za/ancdocs/history/charter.html)>.

John Dugard, "Twenty Years of Human Rights Scholarship and Ten Years of Democracy," *South African Journal of Human Rights*, Vol. 20 (2004), 345-354. [pdf]

Krista Johnson and Sean Jacobs, "Democratization and the rhetoric of rights: contradictions and debate in post-apartheid South Africa," in Harri Englund and Francis Nyamnoh, ed., *Rights and the Politics of Recognition in Africa* (London & New York: Zed Books, 2004), 84-102. [course pack]

Siri Gloppen, "Social Rights Litigation as Transformation: South African Perspectives," in Peris Jones and Kristian Stokke, ed., *Democratising Development: The Politics of Socio-Economic Rights in South Africa* (Leiden: Martinus Nijhoff Publishers, 2005), 153-180. [course pack]

**Recommended:**

John Dugard, *Human Rights and the South African Legal Order* (Princeton: Princeton University Press, 1978).

Kader Asmal, Louise Asmal, and Ronald Suresh Roberts, *Reconciliation through Truth: A Reckoning of Apartheid's Criminal Governance* (Cape Town: David Philip Press, 1996).

Peris Jones and Kristian Stokke, ed., *Democratising Development: The Politics of Socio-Economic Rights in South Africa* (Leiden: Martinus Nijhoff Publishers, 2005).

[The topic for the research paper has to be submitted in or prior to the class of October 18<sup>th</sup>]

**8. October 25<sup>th</sup>****Human Rights and Health in South Africa**

Mandisa Mbali, "HIV/AIDS policy-making in post-apartheid South Africa," in John Daniel, Adam Habib, and Roger Southall, ed., *State of the Nation: South Africa 2003-2004* (Cape Town: HSRC Press, 2003), 312-329. [course pack]

*Minister of Health v. Treatment Action Campaign*, Constitutional Court of South Africa, CCT 8/02. [pdf]

Steven Robins, "'Long Live Zackie, Long Live': AIDS Activism, Science and Citizenship after Apartheid," *Journal of Southern African Studies*, Vol. 30 (2004), 651-672. [pdf]

Additional resources (from Bora Laskin Law Library, Women's Human Rights Resources Programme): <[www.law-lib.utoronto.ca/diana/TAC\\_case\\_study/selectedissues.html](http://www.law-lib.utoronto.ca/diana/TAC_case_study/selectedissues.html)>. [WebCT]

**Recommended:**

Mark Heywood, "Preventing Mother-to-Child HIV Transmission in South Africa: Background, Strategies and Outcomes of the Treatment Action Campaign Case against the Minister of Health," *South African Journal of Human Rights*, Vol. 19 (2003), 278-315. [pdf]

Mark Heywood, "Shaping, Making and Breaking the Law in the Campaign for a National HIV/AIDS Treatment Plan," in Peris Jones and Kristian Stokke, *Democratising Development: The Politics of Socio-Economic Rights in South Africa* (Leiden: Martinus Nijhoff, 2005), 181-212.

Center for Reproductive Rights, *Briefing Paper: Pregnant Women Living with HIV/AIDS: Protecting Human Rights in Programs to Prevent Mother-to-Child Transmission of HIV*, <[http://www.reproductiverights.org/pdf/pub\\_bp\\_HIV.pdf](http://www.reproductiverights.org/pdf/pub_bp_HIV.pdf)>.

[The second response paper has to be submitted in or prior to the class of October 25<sup>th</sup>]

### 9. November 1<sup>st</sup>

#### Human Rights and the Prohibition of Torture

Talal Asad, "On Torture, or Cruel, Inhuman, and Degrading Treatment," in Richard Wilson, ed., *Human Rights, Culture, and Context* (London: Pluto, 1997), 111-133. [course pack]

David Sussman, "What's Wrong with Torture?" *Philosophy and Public Affairs*, Vol. 33 (2005), 1-33. [pdf]

The Supreme Court of Israel, *Judgement on the Interrogation Methods applied by the GSS*, 6 September 1999. [WebCT]

Tal Kastner, "The Language of the Law and the Tortured Body: *The Public Committee Against Torture in Israel v. The State of Israel*," manuscript. [will be posted on WebCT]

#### Recommended:

Sanford Levinson, ed, *Torture* (Oxford: Oxford University Press, 2004).

### 10. November 8<sup>th</sup>

#### Human Rights and Torture in the War on Terror

Manfred Nowak, "What Constitutes Torture? US and UN Standards," *Human Rights Quarterly*, Vol. 28 (2006), 809-841. [pdf]

Mark Danner, *Torture and Truth* (New York: New York Review of Books, 2004), 83-87, 105-106, 199-204. [course pack]

Jane Mayer, "Outsourcing Torture," *The New Yorker*, February 14, 2005. [WebCT]

Amnesty International et al., *Off the Record: U.S. Responsibility for Enforced Disappearances in the 'War on Terror.'* 2007. [pdf]

#### Recommended:

John Parry, "The Shape of Modern Torture: Extraordinary Rendition and Ghost Detainees," *Melbourne Journal of International Law*, Vol. 19 (2005),  
<[www.austlii.edu.au/au/journals/MelbJIL/2005/19.html](http://www.austlii.edu.au/au/journals/MelbJIL/2005/19.html)>.

[The draft or outline of the research paper has to be submitted in or prior to the class of November 8<sup>th</sup>]

### 11. November 15<sup>th</sup>

#### International Human Rights, Globalization, and Violence

Anne Orford, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (Cambridge: Cambridge University Press, 2003), 82-125. [course pack]

Daiva Stasiulis and Darryl Ross, "Security, Flexible Sovereignty, and the Perils of Multiple Citizenship," *Citizenship Studies*, Vol. 10 (2006), 329-348. [pdf]

Richard Weisberg, "Loose Professionalism, or Why Lawyers Take the Lead on Torture," in Sanford Levinson, ed., *Torture: A Collection* (Oxford: Oxford University Press, 2004), 299-305. [course pack]

Recommended:

Sherene Razack, *Dark Threats and White Knights: The Somalia Affair, Peacekeeping and the New Imperialism* (Toronto: University of Toronto Press, 2004).

**12. November 22<sup>nd</sup>****Concluding Reflections & Research Paper Workshop**

Talal Asad, "What Do Human Rights Do? An Anthropological Enquiry," *Theory & Event*, Vol. 4 (2000), <[http://muse.jhu.edu/journals/theory\\_end\\_event/v004/4.4asad.html](http://muse.jhu.edu/journals/theory_end_event/v004/4.4asad.html)>. [ *WebCT*]  
Additional readings TBA.

[ *The third response paper has to be submitted in or prior to the class of November 22<sup>nd</sup>*]

**13. November 29<sup>th</sup>**

Class format/readings TBA.

**Don't forget: The research paper is due on Monday, December 3<sup>rd</sup>.**

**Note on the assignments:** All assignments have to be original work by the student who is submitting them. Collaboration on assignments is not permitted. (The only possible exception to this rule in this course may be joint presentations of two or more students with the specific permission of the instructor.) In addition, students should note Carleton University's policy on instructional offences, available at [www.carleton.ca/cuuc/regulations/acadregsuniv14.html](http://www.carleton.ca/cuuc/regulations/acadregsuniv14.html). Penalties for academic offences may range from a reprimand to expulsion from the university. The use of outside material without proper references is one of the most common and most easily avoidable instructional offences. Whatever language and ideas you take from other sources needs to be referenced. Make yourself familiar with different citation styles! The Carleton University library has many resources that can help you. See: [www.library.carleton.ca/howdoi/citing.html](http://www.library.carleton.ca/howdoi/citing.html).