

Carleton University

Department of Law and Legal Studies

Course Outline

COURSE: LAWS 5903.Z Human Rights: Contexts and Controversies

TERM: Winter 2017

CLASS: Day & Time: Fridays, 11:35-2:25

INSTRUCTOR: Professor Christiane Wilke

CONTACT: Office: D499 Loeb

Office Hrs: Mondays 10 am – 12 pm, Wednesdays 1 – 3 pm (drop-in)

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What do we do with human rights? This course offers an overview of critical approaches to research on human rights in a variety of registers. Topics include human rights & decolonization, knowledge production about human rights, Indigenous rights, crafting ‘new’ human rights, and legal consciousness. Issues include forced disappearances in Latin America, Indigenous peoples’ struggles for land and water in North America, and the ‘first human rights campaign’ in the Congo in the early 20th century.

The course is interdisciplinary and doesn’t presume familiarity with international human rights law and institutions. Students will gain familiarity with international human rights institutions; debates about human rights, universalism, and imperialism; indigenous rights and human rights; human rights and legal subjectivities; and knowledge production about human rights. Case studies focus on the Inter-American human rights system and its response to enforced disappearances and Indigenous land & water rights claims.

Academic Accommodation

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details see the [Student Guide](#)

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details see the [Student Guide](#)

Academic Accommodations for Students with Disabilities: The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the [PMC website](#) for the deadline to request accommodations for the formally-scheduled exam (if applicable).

In general, if you experience any situation that interferes with your ability to focus on your study, please let me know as soon as you can and we will find a way to reconcile the demands of the course with the extra stress that your experiencing. Just come and talk to me.

COURSE MATERIAL:

All materials will be available on cuLearn.

EVALUATION:

- **Presentation on class readings: 5%**
- **Report on a human rights report of your choice: 5%**
- **Three critical response papers: 15% each (45% combined)**
- **Research paper: 40%**

- **Class format:** This is a seminar, and we will read texts that are open to a range of interpretations and critiques. Discussions will be essential in allowing us to see and understand some of these interpretations, their background contexts, and their implications.
- In order to focus and facilitate discussion, we will have **short class presentations** (5 min., worth **5 points**). A presentation should not summarize the text. Instead, the presenter has the choice of highlighting some issues in the text that they think are interesting to discuss.

- **Report on a human rights report:** Please choose a human rights report on an issue of your choice issued by an organization of your choice. Drawing on analytical tools derived from class readings (or other sources you are familiar with), present the key points of a critical analysis of this report (5 min, 5 points). The reports will be presented in class on March 3rd.
- **Attendance policy:** regular attendance is the key to the success in seminar classes. **If you miss three or more classes, you probably have missed so much of the material and class discussion that you should consider withdrawing from the course. If you're in this situation, please come and see me.**

- **Critical Response Papers** are short essays that offer an argument about key issues from assigned readings. You choose which question raised in or by the readings you write about. This means that your paper might reference one of the readings assigned for the week, or all of them, or some of them. You choose a question and argument that addresses a major point raised in the readings. The goal is not to summarize the readings, but to provide a critical response to them. This should all fit in 4-5 pages (double-spaced). **Response papers are due at the beginning of the class for which the reading is assigned. Papers handed in during or after class are late and will not be accepted (no exceptions).** If you are unable to print the paper or come to class, please **email** the paper to me before the beginning of the class in which it is due.

- The first response paper has to be submitted no later than **January 27th**. The second response paper is due no later than **February 17th**. The third response paper is due no later than **March 31st**.
- **You cannot write a response paper on the same text that you are giving a presentation on. You cannot write more than one response per week.**

- The **research paper** challenges you to develop a more sustained argument in 20 double-spaced pages (12-15 pages for undergraduate students) based on readings from this class and outside research. The research paper is due on **April 17th at noon**. Over the course of the term, you will have to submit a **paper proposal (due March 17th)**.
Late research papers will not be accepted without a documented emergency.

SCHEDULE:

Clarification on “recommended” readings: you are not expected to read these texts for the class. Consider these texts as a B-list of readings that did not quite make it on the list of officially assigned class readings. This means that the “recommended” section can be a great resource for your research papers.

Week 1 (January 6th)**Introduction****Week 2 (January 13th)****What are Human Rights?**

Susan Marks, “Human Rights in Disastrous Times,” in James Crawford and Martti Kosekniemi, eds., *The Cambridge Companion to International Law* (New York: Cambridge University Press, 2012), 309-326.

Florian Hoffman, “Foundations beyond law,” in Conor Gearty and Costas Douzinas, eds., *The Cambridge Companion to Human Rights Law* (New York: Cambridge University Press, 2012), 81-96.

Sally Engle Merry, *Human Rights & Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006), 1-35.

International Covenant on Civil and Political Rights (ICCPR), 1966, available online:

<http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

International Covenant on Social, Economic, and Cultural Rights (ICESCR), 1966, available online:

<http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>

Recommended:

Costas Douzinas, *Human Rights and Empire: The political philosophy of cosmopolitanism* (Abingdon: Routledge/GlassHouse, 2007), 3-33.

Ratna Kapur, “Human Rights in the 21st Century: Take a Walk on the Dark Side,” *Sydney Law Review* 28 (2006): 665-687.

Week 3 (January 20th)**Histories of Human Rights**

Steven L.B. Jensen, *The Making of International Human Rights: The 1960s, Decolonization, and the Reconstruction of Global Values* (New York: Cambridge University Press, 2016), 17-17, 18-47.

Samuel Moyn, “A Powerless Companion: Human Rights in the Age of Neoliberalism,” *Law and Contemporary Problems* 77 (2014): 147-169.

Thomas W. Lacqueur, “Mourning, Pity, and the Work of Narrative in the Making of ‘Humanity,’” in Richard

Ashby Wilson and Richard D. Brown, eds., *Humanitarianism and Suffering* (New York: Cambridge University Press, 2009), 31-57.

Universal Declaration of Human Rights (1948), available online:

[http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/217\(III\)](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/217(III))

Freedom Charter (South Africa, 1955), <http://www.sahistory.org.za/article/freedom-charter>

Recommended:

Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA: Belknap/Harvard University Press, 2010).

Jenny S. Martinez, *The Slave Trade and the Origins of International Human Rights Law* (Oxford: Oxford University Press, 2012).

Week 4 (January 27th)

[Critical Response Paper #1 due no later than this week]

Grammars of Human Rights and Human Rights Violations:

Humans, Persons, Victims, Saviours, Perpetrators

Anna Grear, "Challenging Corporate 'Humanity': Legal Disembodiment, Embodiment, and Human Rights," *Human Rights Law Review* 7 (2007): 511-543.

Makau Mutua, "Savages, Victims, and Saviors: The Metaphor of Human Rights," *Harvard International Law Journal* 42 (2001): 201-245.

Cynthia G. Franklin and Laura E. Lyons, "'I have a family': Relational Witnessing and the Evidentiary Power of Grief in the Gwen Araujo Case." *GLQ: A Journal of Gay and Lesbian Studies*, Vol. 22 (2016): 437-466.

Recommended:

Joseph R. Slaughter, *Human Rights, Inc.: The World Novel, Narrative Form, and International Law* (New York: Fordham University Press, 2007).

Erin K. Baines, "Complex political perpetrators: reflections on Dominic Ongwen," *Journal of Modern African Studies* 47 (2009): 163-191.

Tristan Anne Borer, "A Taxonomy of Victims and Perpetrators: Human Rights and Reconciliation in South Africa," *Human Rights Quarterly* 25 (2003): 1088-1116.

Week 5 (February 3rd)

Human Rights: Movements and Organizations

David Kennedy, *The Dark Side of Virtue: Reassessing International Humanitarianism* (Princeton: Princeton UP, 2004), 3-36.

Sally Engle Merry, *Human Rights & Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006), 179-217.

Balakrishnan Rajagopal, *International Law from Below: Development, Social Movements, and Third World Resistance* (New York: Cambridge University Press, 2003), 163-232.

Elizabeth Jelin, "Victims, Relatives, and Citizens in Argentina: Whose Voice is Legitimate Enough?" in Richard Ashby Wilson and Richard D. Brown, eds., *Humanitarianism and Suffering* (New York: Cambridge University Press, 2009), 177-201.

Recommended:

Didier Fassin and Richard Rechtman, *The Empire of Trauma: An Inquiry into the Condition of Victimhood* (Princeton: Princeton University Press, 2009).

Tim Dunne and Nicholas J. Wheeler (eds.), *Human Rights in Global Politics* (Cambridge: Cambridge University Press, 1999).

Mark Goodale and Sally Engle Merry (eds.), *The Practice of Human Rights: Tracking Law Between the Global and the Local* (New York: Cambridge University Press, 2007).

Paul Farmer, "Pathologies of Power: Rethinking Health and Human Rights," *American Journal of Public Health* 89 (1999): 1486-1496.

Week 6 (February 10th)

Making Human Rights: The Right to Truth

Reed Brody and Felipe González, "Nunca Más: An Analysis of International Instruments on 'Disappearances,'" *Human Rights Quarterly* 19 (1997): 365-404.

Patricia Naftali, "Crafting a 'Right to Truth' in International Law: Converging Mobilizations, Diverging Agendas?" *Champ penal/Penal field* XIII (2016); online: <http://champpenal.revues.org/9245>.

Velásquez Rodríguez Case, Judgment of July 29, 1988, Inter-Am.Ct.H.R. (Ser. C) No. 4 (1988). Online: http://hrlibrary.umn.edu/iachr/b_11_12d.htm

Recommended:

Alyson Brisk, "From Above and Below: Social Movements, the International System, and Human Rights in Argentina," *Comparative Political Studies* 26 (1993): 259-285.

Yasmin Naqvi, "The right to truth in international law: fact or fiction?" *International Review of the Red Cross* 88 (2006): 245-273.

Elizabeth Jelin, "Investigating what happened: On truth commissions in processes of transition," *International Sociology* (2016), 1-10.

Banu Bargu, "Sovereignty as Erasure: Rethinking Enforced Disappearances," *Qui Parle: Critical Humanities and Social Sciences* 23 (2014): 35-75.

Kathryn Sikkink, "Latin America's Protagonist Role in Human Rights," *Sur* 12 (2015): 207-215.

Week 7 (February 17th)

[Critical Response Paper #2 due no later than this week]

What is a human rights violation? Creating knowledge about human rights

Ron Dudai, “Can You describe This? Human Rights Reports and What They Tell Us About the Human Rights Movement,” in Richard Ashby Wilson and Richard D. Brown, eds., *Humanitarianism and Suffering* (New York: Cambridge University Press, 2009), 245-264.

Sally Engle Merry, *The Seduction of Quantification: Measuring Human Rights, Gender Violence, and Sex-Trafficking* (Chicago: University of Chicago Press, 2016), 1-26. (optional: pp. 112-139)

Richard A. Wilson, “Representing Human Rights Violations: Social Contexts and Subjectivities,” in Richard A. Wilson, ed., *Human Rights, Culture and Context* (London: Pluto, 1997), 134-160.

Recommended:

Claire Moon, “What One Sees and How One Files Seeing: Human Rights Reporting, Representation, And Action,” *Sociology* 46 (2012): 876-890.

Week 8 (March 3rd)

Human Rights Reporting

Argentine Forensic Anthropology Team (Equipo Argentino de Antropología Forense, EAAG), 2005 *Annual Report on Argentina, pt. 1*. http://eaaf.typepad.com/ar_2005/4aArg-pt1_p14-59_rev.pdf

+ more human rights reports (TBD, picked by the class)

Week 9 (March 10th)

Visualizing Human Rights

Sharon Sliwinski, *Human Rights in Camera* (Chicago: University of Chicago Press, 2011), 17-34, 57-82.

E.D. Morel, *Red Rubber* [1906] (New York: Negro Universities Press, 1969), 157-176.

Mark Twain, *King Leopold's Soliloquy*, 2nd ed. (Boston: Warren, 1905).

Recommended:

Susie Linfield, *The Cruel Radiance: Photography and Political Violence* (Chicago: University of Chicago Press, 2010).

Week 10 (March 17th)

[Research Paper Proposal due no later than this week]

Indigenous Rights and Human Rights

Karen Engle, "On Fragile Architecture: The UN Declaration on the Rights of Indigenous Peoples in the Context of Human Rights," *European Journal of International Law* 22 (2011): 141-163.

Kristen A. Carpenter and Angela R. Riley, "Indigenous Peoples and the Jurisgenerative Moment in Human Rights," *California Law Review* 102 (2014): 173-234.

Peter Kulchysky, *Aboriginal Rights are Not Human Rights* (Winnipeg: Arbeiter Ring Publishing), 17-78.

Recommended:

Jo M. Pasqualucci, "The Evolution of International Indigenous Rights in the Inter-American Human Rights System," *Human Rights Law Review* 6 (2006): 281-322.

Rebecca Tsosie, "Indigenous Peoples and Epistemic Injustice: Science, Ethics, and Human Rights," *Washington Law Review* 87 (2012): 1134-1201.

Week 11 (March 24th)

Water: Rights, Claims, Stories

Pooja Parmar, *Indigeneity and Legal Pluralism in India: Claims, Histories, Meanings* (New York: Cambridge University Press, 2015), 29-66, 134-162.

Cheyenne Sioux Tribe, *Request for Precautionary Measures Pursuant to Article 25 of the LACHR Rules of Procedure Concerning Serious and Urgent Risks of Irreparable Harm Arising Out of Construction of the Dakota Access Pipeline*. 2 December 2016.

Antonio Ginatta, "Dakota Access Pipeline Protests Put Right to Water at Center Stage." 2 November 2016; *Human Rights Watch Dispatches*. Online: <https://www.hrw.org/news/2016/11/02/dakota-access-pipeline-protests-put-right-water-center-stage>

Amnesty International on Standing Rock (texts tbd): <http://www.amnestyusa.org/features/standing-rock-0>

Recommended:

Bronwen Morgan, *Water on Tap: Rights and Regulation in the Transnational Governance of Urban Water Services* (New York: Cambridge University Press, 2011).

Upendra Baxi, "Writing about impunity and environment: the 'silver jubilee' of the Bhopal catastrophe," *Journal of Human Rights and the Environment* 1 (2010): 23-44.

Week 12 (March 31st)

[Critical Response Paper #3 due no later than this week]

Human Rights, Politics, and Paths of Memory

Michael Rothberg, *Multidirectional Memory: Remembering the Holocaust in the Age of Decolonization* (Stanford: Stanford University Press, 2009), 227-266, 309-314.

Angela Failler, "Hope Without Consolation: Prospects for Critical Learning at the Canadian Museum for Human Rights," *Review of Education, Pedagogy, and Cultural Studies* 37 (2015): 227-250.

Heather Milne, "Human Rights and/or Market Logic: Neoliberalism, Difficult Knowledge, and the Canadian Museum for Human Rights," *Review of Education, Pedagogy, and Cultural Studies* 37 (2015): 106-124.

Recommended:

Angela Failler, Peter Ives & Heather Milne, "Introduction: Caring for Difficult Knowledge – Prospects for the Canadian Museum for Human Rights," *Review of Education, Pedagogy, and Cultural Studies* 37 (2015): 100-105.

A. Dirk Moses, "The Canadian Museum of Human Rights: the 'uniqueness of the Holocaust' and the question of genocide," *Journal of Genocide Research* 14 (2012): 215-238.

Marianne Hirsch, *The Generation of Postmemory: Writing and Visual Culture after the Holocaust* (New York: Columbia University Press, 2012).

Week 13 (April 7th)

Class Format TBD