

HUMAN RIGHTS AND CONFLICT

SIS 596.009, American University, Spring 2005

Monday 2:10-4:50

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Brief Course Description:

This course explores the increasingly understood and appreciated intersection of international human rights and conflict. It introduces students to many of the ethical and operational issues confronting policymakers, diplomats, human rights and humanitarian aid workers, soldiers, peacekeepers and civilian police responding to today's conflicts. The course will examine: human rights as a cause or consequence of violent conflict; holding militaries and paramilitaries responsible for violations; peace negotiations and human rights advocacy; the truth vs. justice debate in truth commissions and war crimes trials; civil society as a human rights safeguard; human rights implications of the war on terrorism; and the human rights of refugees and displaced people.

Why this Course?

This course (and the accompanying book) has been developed to fill a void in available courses and to prepare students for many of the jobs that are most open to them today. To the extent that human rights courses address conflict, it is largely confined to humanitarian law and international systems and mechanisms for enforcement. This is out of line with the reality of the human rights field, which relies heavily on extra-legal mechanisms and on the promotion of human rights norms through diplomacy, human rights institution building, education and structural elements in post-conflict reconstruction packages. While peace and conflict resolution courses may mention human rights, it is usually as a peripheral issue so that the human rights dimensions of conflict resolution are never fully and adequately explored.

How the Class Works:

Throughout the semester, students will play the role of policy analysts for actors involved in various aspects of a particular conflict. Iraq will be our featured conflict for most of the semester, although we will examine other conflict areas, such as Israel/ Palestine, South Africa, Bosnia and Northern Ireland. We will follow the human rights dimensions of the conflict from its inception, through the outbreak of violence, the atrocities committed by governmental and nongovernmental armed forces, the flood of refugees, diplomatic negotiations, the signing of a peace agreement and various foreign and local sub-governmental attempts to build a just and lasting peace. An assignment is provided for every class as the policy analysts are called upon to consider all of the various dimensions of human rights and conflict. Note that in consideration of students' workload, the reading assignments are heavier in the beginning of the semester and lighter for the last two classes.

Why this Format?

The format of the course promotes active learning. Students retain vastly greater amounts of course material if they are engaged in the learning process throughout the semester. In addition, the students taking this course have different career aspirations and skill levels, and the format is accordingly designed to be of interest and utility to all participants.

Assignments and Grading:

Students are required to finish all assignments prior to the class for which they are assigned. The assignments should be typed and organized in a 3-ring binder or folder (the "notebook"), and brought to each class (these binders are subject to random "spot checks" and periodic assessments). The course grade will be based entirely on the assignments completed throughout the semester as well as a self-assessment. Criteria for grading include: degree of engagement with issues raised in assigned readings; demonstration of understanding of subject matter; effort; creativity; clarity and professionalism. The class binder is worth 80% of the grade.

Participation (20% grade): Students will be asked for a self-assessment of their participation. There are many ways to participate constructively in the class. While some people are comfortable with speaking spontaneously in the course of class discussion, other people are comfortable speaking only if they have time to prepare in advance. Opportunities for both impromptu and prepared contributions to the class will be provided throughout the course of the class. The goal is to create a supportive and challenging environment for all students. Please see the instructor or assistant should you have any difficulties participating.

Attendance: Regular attendance is expected and required. However, ill students should not attend class. They should take care of themselves and should ask a fellow classmate

to take notes for them. Any student who misses more than two classes *for any reason* must schedule a meeting with the professor to discuss the matter. Even if the absences are excusable, we may wish to consider appropriate make-up assignments. *If you are having a problem completing the work and/or attending class, see me as soon as you can, before the problem grows.*

Course Materials:

Materials from a forthcoming book on Human Rights and Conflict (edited by Julie Mertus and Jeffrey Helsing) will be posted on Blackboard. Other readings include the following books:

Author: Bell, Christine
Title: Peace Agreements and Human Rights
Publisher: Oxford University Press
ISBN: 0199270961

Author: Hersh, Seymour M.
Title: Chain of Command: The Road from 9/11 to Abu Ghraib
Publisher: HarperCollins Publishers
ISBN: 0060195916

Author: Steiner, Niklaus
Title: Problems of Protection: The UNHCR, Refugees, and Human Rights
Publisher: Routledge
ISBN: 0415945747

Author: Strasser, Steven
Title: The Abu Ghraib Investigations: The Official Reports of the Independent Panel and Pentagon on the Shocking Prisoner Abuse in Iraq
Publisher: Public Affairs

Author: Kennedy, David
Title: The Dark Sides of Virtue: Reassessing International Humanitarianism
Publisher: Princeton University Press
ISBN: 0691116865

COURSE SCHEDULE

Note: Read the entry for each class carefully. Some of the main issues to consider for each set of readings are in italics. It is advisable to read these questions carefully both before and after you do the readings and complete the assignment.

BB = Blackboard

Jan. 10: Course Introduction

****NO CLASS Jan. 17 (M.L. King observance)****

Jan. 24: Human Rights as a By-Product or Source of Conflict

READING:

- Ellen Lutz, "Understanding Human Rights and Conflict" (BB)
- Michael Lund, "How Human Rights Cause Conflict and What to Do About It" (BB)
- Julie Mertus and Maia Carter, "Human Rights and Iraq" (BB)
- Human Rights Watch, "Genocide in Iraq," <http://www.hrw.org/reports/1993/iraqanfal/>
- Human Rights Watch, "Bureaucracy of Repression: The Iraqi Government in Its Own Words," <http://www.hrw.org/reports/1994/iraq/>

Consider the nature and scope of research on human rights and conflict. Discuss the potential contributions and limitations of quantitative and qualitative research in this area. Gain background on the Iraq conflict and debate the nature and significance of human rights abuses committed by the Iraqi regime. Debate also the implications of economic sanctions on Iraq.

Assignment: Research the factual background of the Iraq conflict on the web and make an annotated list of the most informative sources. To what extent do human rights violations lie at the root cause of the conflict, both in the past and with regard to new and renewed conflict? Identify the individuals and groups potentially advancing human rights claims and evaluate them. To what extent are human rights violations a by-product of the conflict, both in the past and with regard to new and renewed conflict? Identify the individuals and groups potentially advancing this claim and evaluate them. What research should be conducted in the future with regard to the relationship between human rights issues and your particular conflict? How should it be conducted?

Jan. 31: Civilians in War/ Military Accountability for Human Rights Violations

READING:

- John Cerone, "Holding Military and Paramilitary Forces Accountable" (BB)
- Kenneth Watkin, "Controlling the Use of Force: A Role for Human Rights Norms in Contemporary Armed Conflict," *The American Journal of International Law*, Vol. 98, No. 1. (Jan., 2004)(BB)
- "US: Court Ruling Halts Commission." Human Rights Watch. 8 Nov. 2004. <http://www.hrw.org/english/docs/2004/11/08/usdom9632.htm>
- Human Rights Watch, "Rights and Duties of Prisoners of War," <http://hrw.org/press/2003/03/pow032403.htm>
- Human Rights Watch, "Hearts and Minds: Post-war Civilian Deaths in Baghdad Caused by U.S. Forces," <http://www.hrw.org/reports/2003/iraq1003/>
- Human Rights Watch, "Climate of Fear: Sexual Violence and abduction of Women and girls in Baghdad," <http://hrw.org/reports/2003/iraq0703/>

Review the legal and historical development of humanitarian law, with particular attention to the categories "civilian," "combatant" and "belligerent." What has been the historical relationship between human rights and humanitarian law? Explore why belligerents violate humanitarian norms and why and when they comply. Understand one of the central dilemmas facing international organizations concerned with the protection of civilians: whether and how to conduct relations with nonstate belligerent groups. Evaluate the mechanisms available to the United Nations for securing compliance with international humanitarian law. Consider the impact of war and "war pollution" on children.

Assignment:

PROBLEM:

Fog of War: NATO's Bombing of the Chinese Embassy in Belgrade (BB)(see instructions below)

Fog of War (bombing.pdf)

If you are a Cancer, Leo, Sagittarius, Capricorn, Libra, or Pisces, your assignment is as follows:

--> Take the position of a NATO chief, trying to keep your coalition together after the mistake of the embassy bombing. Write a letter to the Chinese government of apology and offering specific reassurances that your wartime practices are abiding by humanitarian law.

If you are a Scorpio, Aquarius, Virgo, Gemini, Aires, or Taurus, your assignment is as follows:

-->Take the position of a leader of the Chinese government who just found out that your embassy was bombed. Write a letter to the head of NATO explaining your concerns regarding their abidance of humanitarian law, the military endeavor

against the Serbs in general, and offering diplomatic suggestions for the new route NATO and US-China relations will take, if any.

THE LETTERS SHOULD BE WRITTEN AS IF THEY ARE THE FIRST CORRESPONDANCE MADE WITH THE OTHER GROUP; THAT IS, DO NOT PRESUME PRIOR DIPLOMACY OR POSITIONS HAVE BEEN ESTABLISHED BY THE READER OF THE LETTER.

Feb. 7: The Chain of Command and Problems of Accountability

READINGS:

- *Chain of Command*
- Mertus, Singer, Avant, Laquement papers on accountability (BB)

Assignment:

PROBLEM:

Holding Private Actors Accountable in Wartime (BB)(see instructions below)

Hypothetical:

A civil war between the Christian north and Muslim south has been raging in Trobultinia for nearly five years. The neighboring oil-rich state of Pritan has been absorbing refugees throughout this time period, but recently the refugee population has grown increasingly restless. Regional stability has been placed in jeopardy and the oil pipe line from Pritan faces disruptions. This is a major concern for many western world powers who rely on Prinan oil. The President of one world power, Bato, is particularly alarmed. (Incidentally, prior to becoming president, he was the president of a large gas company and he sat on the board of directors of GynCorp, a military subcontractor -- the leading producer of military uniforms and other small military supplies). Bato sends in 50 military advisors to work with the leaders of the forces in Trobultina's Christian north. It also hires GynCorp to create and train a supplemental force of more than 5,000 people to support Pritan in policing its borders. Over time, several of the GynCorp advisors cross the line into Trobultinia and conduct military trainings in the Christian north.

Reports from human rights workers coming out of the area are not good. Rebel forces in the Christian north stand accused of committing war crimes against Muslim civilians. Humanitarian workers, based in governmental and nongovernmental NGOs, are accused of withholding food and aid based on systematic racial and religious discrimination.

Identify all the human rights issues in this problem. Discuss whether and how nonstate actors may be legally responsible for human rights violations.

Feb. 14: Human Rights Implications of Efforts to Combat Terrorism

READING:

- Jordan Paust, “Links Between Terrorism and Human Rights” (BB)
- David Stewart, “Comment on Jordan Paust, “Links Between Terrorism and Human Rights” (BB)
- Julie Mertus and Kathleen Clark, “Torturing the Law,” (BB)
- *The Abu Ghraib Investigations: The Official Reports of the Independent Panel and Pentagon on the Shocking Prisoner Abuse in Iraq* (entire book)

Examine the human rights issues implicated with respect to terrorism and responses undertaken to combat terrorism. Discuss the implications of such issues as hostage-taking, abductions, and detention with and without POW status. Review potential violations of international law in response to terrorism, such as: torture, cruel, and inhumane treatment; collective penalties; and denials of due process. Consider the rights and duties of prisoners of war with specific reference to the U.S. treatment of detainees from Iraq and Afghanistan.

Assignment: How does the issue of terrorism raise human rights concerns? Make a list of the arguments you find most and least convincing in the readings. Next to each item on the list, briefly explain the argument made and your reaction to it. Collect at least five opinion pieces (op-eds, editorials, commentary in magazines such as *The Nation* and *The New York Review of Books*) discussing reactions to terrorism. Critique the critics and apply them to the present case of Iraq.

Feb. 21: Claiming a Humanitarian Imperative: NGOs and the Cultivation of Humanitarian Duty

READING:

- Hugo Slim, “Cultivating a Humanitarian Imperative” (BB)
- Johnathan Moore, “Humanitarian Duty and Humanitarian Effect: Putting Theory Into Practice” (BB)
- Arthur Helton, “What is Refugee Protection” (in *Problems of Protection*)
- Erik Roxstrom and Mark Gibney, “The Legal and Ethical Obligations of UNHCR” (in *Problems of Protection*)
- Elizabeth Ferris, “The Role of Nongovernmental Organizations in the International Refugee Regime” (in *Problems of Protection*)

Define the concept of “humanitarian duty” and discuss its origins in morality, politics and law. Question the role of NGOs in humanitarian crises, their relationship to human rights and conflict, and their prospects for improved performance in the field.

Assignment:

Refugee Protection Hypothetical Part I (BB)(see instructions below)

Internally Displaced Persons

Identify and analyze all of the human rights issues present in the following hypothetical case:

A landslide and avalanche in the Kashmir region has forced Hindus, Muslims, Sikhs, and indigenous Dard Shin people to flee from their villages in the mountains. Together, these mountain sheep-herders and agriculturalists are currently living in a camp for internally displaced people, run by the Red Cross on the Indian side of the border. The Red Cross has restricted the movement of people within the camp such that they cannot leave until more permanent housing has been built for the populations, for fear that any one of the groups will act or plan violent actions against the other groups, who have had a history of ethnic conflict for several decades. Violent conflicts have already broken out in the camp, on one occasion resulting in the deaths of 3 Hindus and 2 Muslims.

The Red Cross maintains that it is unsafe to leave the camp, for fear that environmental stability in the area is still uncertain and that there is risk. This prevents all of the displaced people from meeting the rest of their communities and from finding and seeking work, among other things. However, the persons in the camp, especially the traditionally roaming Dard Shin people, want to leave and feel that they are willing to face any further risks on their own.

In addition, the Muslims in the camp claim that they are consistently the last to receive food, while the strictly vegetarian Hindus in the camp feel discriminated against because they must eat out of the same dishes where meat is served and cooked. The Sikhs contend that there is not adequate prayer space in the Red Cross facility for their needs to be met.

The displaced population consisted of residents of both India and Pakistan, and the governments have been very bad at communicating to the populations what information they have about their reconstruction efforts, how stable the environment is in the region, and how long the camp will continue to operate. Many in the camp, as well as outside journalists, observe that the refugees may be caught as pawns in the political and security conflict that India and Pakistan are fighting, particularly because there is some question as to who in the camp crossed the border between the states as they fled to the camp. Women were only marginally involved in the planning and decision-making when the camp was set up, which, the government claims, was due to the majority will and religious concerns of the entire refugee population.

Use the following document to support your case:

Rights of Internally Displaced Persons

http://www.hrea.org/erc/Library/display_doc.php?url=http%3A%2F%2Fwww.idpproject.org%2Ftraining%2Fnrc_modules%2Fnew%2Fmodule_3.pdf&external=N

Feb. 28: Julie Mertus at International Studies Association (See Mar. 21 assignment)

Mar. 7: SPRING BREAK

Mar. 14: Challenges for Promoting the Human Rights of Refugees and Forced Migrants

** HAND IN NOTEBOOKS **

MAIN READING:

- Susan Martin & Andrew Schoenholtz, “Promoting the Human Rights of Forced Migrants” (BB)
- Bonny Ibhawho, “Defining Persecution and Protection: The Cultural Relativism Debate,” (in *Problems of Protection*)
- Emily Copelan, “A Rare Opening in the Wall: Gender-Based Persecution,” (in *Problems of Protection*)
- Monica Kathina Juma and Peter Mwangi Kagwanja, “Securing Refuge from Terror,” (in *Problems of Protection*)
- Joanne van Selm, “Refugee Protection in the U.S. and After 9/11” (in *Problems of Protection*)

Recognize forced migration as an inevitable and increasing consequence of conflict. Understand methods of addressing internal migration and their relationship to promotion of internal security, sustainable development and respect for human rights. Explore the international refugee regime, including principles of asylum and protection from refoulement, and examine recent challenges for the protection and promotion of the human rights of refugees.

Assignment: Refugee Protection Hypothetical Part II (BB) (see instructions below)

Read the following --

Human Rights of Returning Refugees

<http://www1.umn.edu/humanrts/monitoring/chapter11.html>

Now examine the Memorandum of Understanding (MOU) No. 5 Between HRFOR and UNHCR Rwanda on Returnee Monitoring:

<http://www1.umn.edu/humanrts/monitoring/chapter11-appendix1.html>

Critique the MOU. To what extent does it sufficiently address the rights of refugees and displaced people? How could it be improved? Create a MOU for refugees and displaced people in another part of the world. (Use this as a model, but improve upon it).

Mar. 21: The Role of Human Rights in Peace Agreements: Case Studies

Note: The class will be divided in half and half will do the assignment for “group one” and half for “group two.” The first class meeting, Feb. 28th, you will meet separately to discuss both the substance of the discussion questions and your logistics for your class presentation (for example, will you further divide into smaller groups with specific tasks –i.e., those examining land issues, governance, accountability mechanisms, etc?). Group assignments will be made early in the semester and two team leaders will be elected for each group – if you are delayed in your return from spring break for any reason, it is your responsibility to contact your team leaders and to make appropriate arrangements. For your notebook entry for this class, include both reflections on the readings as well as the group process.

The second class you will prepare an interactive presentation on your comparative case studies. Presentations may involve power point, handouts, posters and other visuals as well as mini-role plays. Ultimately, you should suggest lessons from your case studies that should be applied to Iraq and other future cases. For your notebook entry for this class, include a copy (or description) of your presentation as well as a reflection on the process.

GROUP ONE: SOUTH AFRICA AND NORTHERN IRELAND

MAIN READING:

- Christine Bell, Peace Agreements and Human Rights, chapters 2, 3, 5 (pp. 121-143), 6(pp. 170-180), 7 (pp. 206-221), 8 (pp.243-246),. (pp. 273-280)

Assignment: Using South Africa and Northern Ireland case studies, examine the formation of peace agreements and the inclusion of specific human rights provisions in such agreements. Engage in a comparative analysis of the peace agreements with regard to self-determination, provisions on "building for the future" through the creation of specific institutional arrangements, and provisions on "undoing the past," with a specific focus on return of refugees, claims to land, treatment of prisoners, and other prior- regime questions related to accountability and truth.

GROUP TWO: ISRAEL/PALESTINE AND BOSNIA:

MAIN READING:

- Christine Bell, Peace Agreements and Human Rights, chapters 2, 4, 5 (pp. 143-158), 6 (pp. 180-188), 7 (pp. 199-206-221-228), 8 (pp. 247-254), 9 (pp. 280-291).

Assignment: Apply Bosnia and Israel/Palestine case studies to the consideration of how, in the post-agreement reconstruction phase, human rights institutions play a dual role in (1) providing institutions that promise to respond to human rights abuses in a way that the previous regime did not (i.e. "legitimizing role"); and (2) bringing disparate sectors of society together under common structures (i.e. "integrative" role). Debate whether negotiators may view establishment of "flagship" democratic credentials as a quick exit strategy for their own involvement in the conflict.

Mar. 28: Human Rights and Conflict Resolution Efforts: Opportunity or Obstacle

READING:

- Lisa Schirch, "A Peacebuilding Framework to Link Human Rights and Conflict Transformation" (BB)
- Christine Bell, "Negotiating Justice: Conflict Resolution and Human Rights" (BB)
- Eghosa E. Osaghae, "Human Rights and Ethnic Conflict Management: The Case of Nigeria," *Journal of Peace Research*, Vol. 33, No. 2. (May, 1996)(BB)
- Human Rights Watch, "Iraq: Security Council Resolution Silent on Human Rights International Justice Needed for Past Abusers," <http://www.hrw.org/press/2003/05/iraq052003.htm>
- Human Rights Watch, "Iraq: Garner Must Address Human Rights Call for Human Rights Monitors on the Ground," <http://www.hrw.org/press/2003/04/iraq042403.htm>

Debate whether a tension exists between human rights and conflict resolution. Explore the analytical tools and values shared by conflict resolution practitioners and human rights practitioners and examine the rivalry, tensions, and differences between human rights and conflict resolution approaches. Consider the concept of "just peace" as a useful alternative frame.

Assignment: Identify the tension between conflict and human rights in the present problem. Make a list of at least four different "players" in the present conflict, divided into camps identified as "human rights promoters," "war stoppers," "peace promoters" and "humanitarian aid providers." Use the web to research these actors and write their profiles in your notebook. What are their interests with respect to the conflict? What tensions exist? How could they be addressed?

April 4: Human Rights Education and Grassroots Peacebuilding

READING:

- Nancy Flowers and Janet Lord, "Human Rights Education and Grassroots Peacebuilding" (BB)

- Stephanie Kleine-Ahlbrandt, “The UN Decade for Human Rights Education...”(BB)

Identify areas of convergence and divergence between human rights education and peace education and discuss the role of philosophies, practical applications. Understand the role of UNESCO and other international bodies in linking peace and human rights education projects and explore the work of NGOs today on related educational endeavors. Debate whether human rights education is central to individual and community transformation and to peacebuilding in general.

Assignment: To what extent is human rights education central to peacebuilding in our conflict area? What type of education (human rights education or peace education) might you be inclined to support? Draw up a lesson plan for a post-conflict education workshop with regard to our conflict. [Conduct web research into human rights education and peace education organizations in drawing up your plan]. What are the objectives of the workshop? What skills are you seeking to build? What values are you trying to impart? Identify your audience and be specific about the exercises you would include. Prepare to present your plans and to have your plan critiqued by others.

April 11: Post-Agreement Reconstruction

READING:

- Alan Keenan, “Building a Democratic Middleground: Professional Civil Society and the Politics of Human Rights in Sri Lanka’s Peace Process” (BB)
- Mohammed Abu-Nimer and Edy Kaufman, “Bridging Conflict Resolution and Human Rights: Lessons from Israel/ Palestine” (BB)
- Patricia Weiss Fagen, “Post-Conflict Reintegration and Reconstruction,” (in *Problems of Protection*)
- Michael O’Flaherty, Sierra Leone’s Peace Process: The Role of the Human Rights Community,” *Human Rights Quarterly*,, vol. 26(1)9feb. 2004) (BB)
- Human Rights Watch, “Protecting Iraq’s Future,” <http://www.hrw.org/background/mena/iraq/iraq-memo102203.htm>
- Human Rights Watch, “The War in Iraq and International Humanitarian Law: Frequently Asked Questions on Occupation,” (FAQ)<http://www.hrw.org/campaigns/iraq/ihlfaqoccupation.htm>

Define civil society and locate its importance in societies emerging from violent conflict. Discuss the benefits and limitations of campaigns to build civil society.

Who benefits? Who loses? What are the moral and legal implications? Is it workable everywhere?

Assignment: To what extent is civil society building central to peacebuilding in our conflict area? Draw up a step-by-step plan for civil society building with regard to our conflict. [Use materials from think tanks, U.S. State Department, NGOs and other groups to inform your project]. Do your best to draw up a draft budget and to identify implementing partners. Prepare to present your plan in class and to have your plan critiqued by others.

April 18: New Contours of an Ongoing Debate: Is there a "Right to Peace"?

**** HAND IN NOTEBOOKS *****

READING:

- Abdul Aziz Said and Charles Lerche, "The Right to Peace" (BB)
- Jack Donnelly, "Comment on Abdul Aziz Said and Charles Lerche, "The Right to Peace" (BB)

Understand the benefits and limitations of a "right to peace." Explore possible definitions of such a right and analyze their legal and moral implications. Examine the notion of "positive peace" and review its connections to human rights discourse.

Assignment: Is there a "right to peace"? Why or why not?

What have been some of the most important things you have learned in this course? Is this course connected to your career aspirations? Did it help you develop and useful skills? Did you work hard and was the format and atmosphere of the course conducive for learning?

April 25: Synthesis and Wrap-up