

University of Witwatersrand School of Social Sciences

International Human Rights Exchange Programme (IHRE), 2011
Culture and Human Rights (Anth2006)

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Appeals to culture in the context of human rights violations are heard quite often. Indeed, the recourse to culture as a defense of less than democratic practices often hides the worst excesses of state violence against dissidents, the abuse of women and children, and the treatment of strangers, foreigners, refugees, migrants, the poor and marginalized, and the less powerful. Within this discourse on human rights, those that claim to be of a progressive mind, 'culture' is portrayed as an obstacle to the declaration and implementation of human rights regimes as part of constitutional law and in the practice of that law. More often, it is considered an obstacle to be overcome, accommodated, negotiated around, or simply avoided in the pursuit of modernity and universal human rights provisions. Yet there are also appeals to human rights provisions to protect cultural practices and values in the name of diversity, land reform, security and social cohesion. In this context, human rights provisions are used to advance the cause of particular people, but within an international discourse and practice of cultural rights in defense and protection of people's livelihoods, environment and land. This places the concept of culture in a very ambiguous position. The ambiguity of culture and human rights as separate perspectives is further complicated by the notion that there is now a culture of human rights. By this is meant that over the last 50 years or more (since at least the Universal Declaration of Human Rights), the idea of rights as integral to the way in which we conduct ourselves on an everyday level and on all major issues has become pervasive.

This course explores the concept of culture from the perspectives of anthropologists and other social scientists, from the initial critique of human rights as an imposition on people to one which tries to explore the space within which the apparent opposition between 'culture' and 'rights' is generally located. It explores some of the advantages and spaces for defending and advancing the notion of human rights through the appeal on grounds of cultural practices and tradition, while problematising the notion of cultural rights that reinforce discriminatory and exclusionary practices.

Week One : The Changing Concept of Culture:

Thornton, R (1988) Culture: A Contemporary Definition in Boonzaier, E and Sharp, J (eds) *South African Keywords*, Cape Town, David Philip

Garuba, H and Radithalo, S (2008) Culture in Shepherd, N and Robbins, S (eds) *New South African Keywords*. Auckland Park, Jacana Media.

Week Two: The Emergence of Human Rights: The Problem of Culture and the Three Generations of Rights

- Documents (all available on the internet or through the library website)
- The Universal Declaration of Human Rights (available on the internet)
- International Covenant of Civil and Political rights (available on the internet)
- International Covenant on Economic, Social and Cultural Rights (available on the internet)
- African Charter on Human and People's Rights (available on the internet)
- American Anthropological Association (1947) 'Statement of Human Rights' *American Anthropologist* 49 (4) 539-43
- American Anthropological Association (1947) 'Statement of Human Rights' *American Anthropologist* 49 (4) 539-43
- Steward, J (1948) Comments on the statement on Human Rights *American Anthropologists* 50: 351-2
- American Anthropological Association Statement on Human Rights www.aaanet.org
- Speed, S (2006) 'At the Cross Roads of human rights and Anthropology: Toward a Critically Engaged Activist Research', *American Anthropologist* Vol.108, No. 1, pp 66-76.

Michael, I (2001) *Human Rights as Politics and Idolatry*. Pp 3-52; 53-98.

Week Three: Between Universalism and relativism

Anthropology: the Culture and Human Rights Debate

- Wilson, RA (1996) Introduction: Human rights, Culture and Context in *Human Rights, Culture and Context; Anthropological Perspectives* RA Wilson (ed.) London Pluto Press
- Merry, SE (2001) Changing rights, changing culture in *Culture and Rights: Anthropological Perspectives* Cowan, JK; Dembour, M-B and Wilson, RA (eds.) Cambridge, Cambridge University Press
- Riles, A (2006) Anthropology, Human Rights and Legal Knowledge: Culture in the Iron Cage. *American Anthropologists*, 108. No 1

Cultural Diversity and Human Rights

- UNESCO 1995) *Our Creative Diversity*. UNESCO, World Commission on Culture and Development. (document is online from UNESCO website)
- Eriksen, TH (2001) Between universalism and relativism: A critique of the UNESCO concept of Culture. In *Culture and Rights: Anthropological Perspectives* Cowan, JK; Dembour, M-B and Wilson, RA Cambridge, Cambridge, University Press

Dembour, M-B (2001) Following the movement of a pendulum: Between Universalism and Relativism in *Culture and Rights: Anthropological Perspectives* Cowan, JK; Dembour, M-B and Wilson, RA Cambridge, Cambridge University Press

Week 4: Politicised Bodies, Sexuality, and Women's Rights

- CEDAW and Women's Rights
- Sexuality and Human Rights

Documents (available online):

Convention on the Elimination of all Forms of Discrimination against Women

Readings:

- Whalley, Christine (1997) "Searching for Voices: Feminism, Anthropology and the Global debates over Female Genital Operations", *Cultural Anthropology*, 12 (3): 405-438
- Oloka-Onyango & Tamala, "'The Personal is Political' or Why Women's Rights are Indeed Human Rights: An African Perspective on International Feminism", (1995) 17 *Human Rights Quarterly* 691
- Adams, V (2002) "Suffering the Winds of Lhasa: Politicized Bodies, Human Rights, cultural difference and Humanism in Tibet", *The Anthropology of Globalization*, J.X. and Rosaldo, R (eds.) Oxford, Blackwell Publishing
- Donham, DL (2002) "Freeing South Africa: The Modernization of Male-Male Sexuality in Soweto", *The Anthropology of Globalization*, J.X. and Rosaldo, R (eds.) Oxford, Blackwell Publishing

Further reading:

- Banda, Fareda, Women, Law and Human Rights: An African Perspective, Hart, 2005 (pages 41 - 83)

Week 5: Culture and Collective Rights

- Indigenous Rights
- Refugee Rights and "membership of a particular social group"

Documents (available online):

Declaration on Indigenous Rights

Convention relating to the Status of Refugees 1951, Article 1A

UDHR, Articles 13 and 14

Readings:

- Gilbert, J., " Indigenous Rights in the Making: The United Nations Declaration on the Rights of Indigenous Peoples", *International Journal on Minority and Group Rights*, 14 (2007), pg 207-230
- Robbins, S (2001) "NGOs, Bushmen, and Double Vision: The #khomani San Land Claim and the Cultural Politics of 'Community' and 'Development' in the Kalahari", *Journal of Southern African Studies*, 27 (4): 833 - 853
- Andrea Binder, "Gender and the membership in a Particular Social Group Category of the 1951 Convention", 10 Colum.J.Gender & Law 167 (2000-2001)
- Coker, M. Elizabeth, "Dislocated Identity and the Fragmented Body: Discourses of Resistance among Southern Sudanese Refugees in Cairo", *Journal of Refugee Studies* Vol. 17, No. 4, OUP 2004

Week 6: Human Rights, Social Movements and NGOs

- NGOs and Human Rights
- Public Interest Litigation / Social Action Litigation (PIL in India and “*weiqan*” in China)

Readings:

- Santos, B. de S. S. and C. Rodriguez-Garavito (2005), “Law, Politics and the subaltern in counter hegemonic globalizations”, in *Law and Globalisation from Below*, B. de S. S. and C. Rodriguez-Garavito (eds.), CUP
- M. Mutua, “Human Rights International NGOs” in “*NGOs and Human Rights: Promise and Performance*” by C.E.Welch (2001), University of Pennsylvania Press, Chapter 7
- Houtzager, PP (2005) “The Movement of Landless (MST), Juridical Field and Leal Change in Brazil”, *Law and Globalisation from Below*, B. de S. S. and C. Rodriguez-Garavito (eds.), CUP
- A. M. Sood, “Gender Justice through Public Interest Litigation: Case Studies from India”, *Vanderbilt Journal of Transnational Law*, Vol. 41, 2008, pgs 835-850 and 885-898.
- Fu, Hualing and Cullen, Richard, “Wei quan (Rights Protection) Lawyering in an Authoritarian State: Toward Critical Lawyering” (January 15, 2008). Available at: <http://ssrn.com/abstract=1083925>

Week 7: Revision