

ENGAGEMENT IN HUMAN RIGHTS COURSE OUTLINE

COURSE DESCRIPTION

The human rights movement changed the social, political and economic landscape of the twentieth century and its momentum has continued into the twenty-first. The normative force of human rights has been a powerful weapon in the hands of the oppressed and those fighting on their behalf. At the center of human rights promotion and enforcement are international and domestic civil society actors. Their engagement with human rights through fact-finding, reporting, litigation, lobbying, public education, and standard-setting has been quintessential to the success of the human rights movement.

Despite this remarkable success, the very meaning and definition of human rights remains highly contested. Furthermore, the biggest proponents of human rights—civil society actors—have come under increasing scrutiny. Critics from within and outside the human rights movement have questioned the accountability and transparency of international and domestic civil society institutions, labeling these institutions elite, special interest groups that are for the most part disconnected from the people on whose behalf they claim to advocate. Critics challenge some of the methods used by these organizations and point to the very real “costs” the successes of the human rights movement impose on groups whose causes fall outside of the dominant conceptions of what constitutes human rights.

This course will encourage a strategic and critical approach to engagement in human rights grounded in theory but that draws on the students’ practical internship experiences. We will also draw lessons from the successes and failures of civil society’s engagement with human rights using international case studies, and to a great extent, case studies taken from South Africa’s own experiences. The premise of the course is that only through continued, honest and critical internal reflection can human rights advocates sustain and improve upon the gains they have made in improving the lives of countless people across the globe.

This course will be conducted as a seminar and class participation will play an important role in facilitating the learning process. Students are expected to engage each other during class and to learn as much from each other’s internship experiences as from the course materials and instructors.

Course Instructors: Jennifer Kloes will lead the first week of the 3rd block and Tendayi Achiume (emily.achiume@yale.edu) will lead the remainder of the course.

During the Thursday sessions of the second and third weeks of Block 3, students will be assigned a project to work on; and the Monday sessions in Weeks 2 and 3 will be used to work through practical internship issues that arise.

Course Meetings: Blocks 3 and 4: Mon 12.30-13.15 CB256; Thurs 8.00-9.45 CB256. Office hours to be advised.

COURSE REQUIREMENTS AND GRADING

- **Reading responses (25%)**
Each student must submit a total of four short reading response papers over the course of the semester. The purpose of these papers is *not* to summarize the readings. Instead they must engage the readings assigned for the chosen week, and take positions either in support of or against the points of view expressed in the readings. Where possible, these papers should draw on the practical experiences of the students' internship experience, and use these to shed light on the reading materials. Students should confine themselves to the assigned readings, and no further research is required. Students may choose to which four class readings they would like to respond, and the response papers are due two days before the class session to which they pertain. Each paper should be four pages double-spaced in Times New Roman font, size 12.
- **Mid-term examination (25%)**
The midterm examination will consist of one or two hypothetical situations that combine factual scenarios taken from contemporary contexts of human rights violations. Students will be required to identify creative, strategic responses for how best to promote and protect human rights in those circumstances.
- **Final examination (40%)**
There will be a final examination.
- **Class participation (10%)**
Class attendance is mandatory and a class participation mark will be awarded on the basis of each student's engagement with class discussions.

COURSE OUTLINE

*****BLOCK THREE*****

I. Unpacking the Concepts of Activism and Civil Society

Monday, July 13

Introductions and discussion of class assignment for week three.

Thursday, July 16

- Office of the United Nations High Commissioner for Human Rights, "Who Are Human Rights Defenders?"
(<http://www2.ohchr.org/english/issues/defenders/who.htm>)
- Selections from *Speak Truth to Power* (www.speaktruth.org): An Introduction by Kerry Kennedy; Van Jones (United States); Kek Galabru (Cambodia); Anonymous (Sudan); Kailash Satyarthi (India)

- *Tutu's Daughter: A Force for Human Rights* (listen to on-line radio interview) <http://www.npr.org/templates/story/story.php?storyId=105077026>
- "Rwanda: Surely the Final Say Cannot Be in New York," *The New Times*, May 21, 2009
- Bynoe, "Who Shall Lead Us?" in *Stand and Deliver: Political Activism, Leadership and Hip Hop Culture*, pp. 3-16
- Hopgood, "Between Two Worlds," in *Keepers of the Flame: Understanding Amnesty International*, pp. 1-21
- Kennedy, "Preface" in *The Dark Side of Virtue: Reassessing International Humanitarianism*, pp. xi-xxvi

Monday July 20 and 27

There will be no formal class on these days, but the session will be devoted to a practical review of the internships with Elanza and Ayesha. Students ARE required to be present at these sessions.

Thursday July 23 and 30

Practical Assignment

There will be **no class meetings on July 23 and 30**. Instead, students will conduct research aimed at identifying the key methods of human rights engagement employed by the organizations with which they are interning. In other words, each student will document the principle human rights enforcement, promotion or protection strategies of his or her host organization. This research should include interviews with relevant members of staff at the host organization and the findings should be summarized in a two- to four-page document to be presented and handed in at the next class meeting.

II. Strategies of Human Rights Engagement

In this section we explore some of civil society's principle strategies of engagement with human rights globally and nationally. We look at successful and failed efforts to enforce human rights and through case studies analyze the relative strengths and weaknesses of the various strategies at play.

Monday, 3 August

In this class a first group of students will be randomly selected to present briefly the primary human rights enforcement, protection or promotion strategies of their host organizations, based on the results of their research from the previous week. All students should come prepared to present and if we run out of time, the remaining students will do their presentations in Thursday's class.

Thursday, 6 August

Presentations continued.

Readings:

- Shestack, *Sisyphus Endures: The International Human Rights NGO*, 24 *New York Law School Law Review* 89 (1978-1979)

- Bukovská, *Perpetrating Good: Unintended Consequences of International Human Rights Advocacy*, (2008) 9 INTERNATIONAL JOURNAL ON HUMAN RIGHTS 7

Fact-finding and reporting human rights violations

Monday, 10 August

Women's Day, No Class

Thursday, 13 August: Overview

Readings:

- Orentlicher, *Bearing Witness: The Art and Science of Human Rights Fact-Finding*, 3 HARVARD HUMAN RIGHTS JOURNAL 83 (1990)
- Ron, Ramos & Rodgers, *Transnational Information Politics: NGO Human Rights Reporting, 1986-2000*, 49 INTERNATIONAL STUDIES QUARTERLY 557 (2005)

Monday, 17 August: International Examples

Readings:

- Welch, "Amnesty International and Human Rights Watch," in *NGOs and Human Rights: Promise and Performance*, Welch (ed.) (University of Pennsylvania Press), pp. 85-118
- Hafner-Burton, *Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem*, 62 INTERNATIONAL ORGANIZATION 689 (2008)

Thursday, 20 August: Domestic Examples

- "Submission by the Consortium for Refugee and Migrant Rights in South Africa (CoRMSA) and Lawyers for Human Rights (LHR) to the Special Rapporteur on Refugees, Asylum Seekers, IDPs and Migrants at the 45th Ordinary Sessions of the African Commission on Human and Peoples' Rights," May 2009
- Lawyers for Human Rights press release on unlawful detention
- LHR press release on the permanent closure of Musina

Litigation

Monday, 24 August: Overview

Readings:

- Pieterse, *Possibilities and Pitfalls in the Domestic Enforcement of Social Rights: Contemplating the South African Experience*, 26 HUMAN RIGHTS QUARTERLY (2004) 882-905

Thursday, 27 August: Regional Example

- Mujuzi, *The Role of Civil Society in Protecting and Promoting Prisoners' Rights Before the African Commission on Human and Peoples' Rights*, 5(3) INTERNATIONAL JOURNAL OF CIVIL SOCIETY LAW, 18 (2007)
- Viljeon, Louw & Lirette, *State Compliance with the Recommendations of the African Commission on Human and Peoples' Rights, 1994-2004* 101 American Journal of International Law 1 (2007)

29 August – 6 September

Vacation/Study/Research Break

Wednesday 2 September

Class trip to Constitutional Court for the hearing of *Mazibuko and Others v City of Johannesburg* (Access to water Case)

○ **Readings:**

- **Heads of Argument from *Mazibuko and Others v City of Johannesburg*, (will be provided beforehand)**

*******FOURTH BLOCK*******

Litigation Continued

Monday, 7 September:

Discussion of *Mazibuko and Others v City of Johannesburg* hearing
Readings to be advised.

Thursday, 10 September: Regional Examples continued

- Cavallaro & Schaffer, *Less as More: Rethinking Supranational Litigation of Economic and Social Rights in the Americas*, 56 HASTINGS LAW JOURNAL 217 (2004-2005)
- Melish, *Rethinking the “Less is More” Thesis: Supranational Litigation of Economic and Social Rights in the Americas*, 39 New York University Journal of International Law and Politics 171 (2006-2007)

Monday, 14 September: Overview of domestic litigation

Readings and guest speaker to be advised

Thursday, 17 September

In class midterm examination

Monday, 21 September: Lesbian and Gay Rights in South Africa (Case study)

- *National Coalition for Gay and Lesbian Equality and Others v Minister of Home Affairs*, Excerpts from Judgment (Pages to be advised)
- *Minister of Home Affairs and Others v Fourie and Others*, Excerpts from Judgment (Pages to be advised)
- Dersuit, “The Problem of Identities: The Lesbian, Gay, Bisexual, Transgender and Intersex Social Movements in South Africa” in VOICES OF PROTEST: SOCIAL MOVEMENTS IN POST-APARTHEID SOUTH AFRICA (Ballard, Habib and Valodia eds.)(2006) [hereinafter VOICES OF PROTEST]
- *South Africa: Same-sex marriage bill divides opinion polls*, IRIN News, 18 November 2006
- *It’s still not ok to be gay in SA*, Mthethwa, The Star November 23 2008

Thursday 24 September: TAC (Case study)

- *Treatment Action Campaign v Minister of Health*, Selected Issues from University of Toronto case study document

- Excerpt from *Treatment Action Campaign v Minister of Health* Judgment (Pages to be advised)

Monday, 28 September: Human rights litigation in Zimbabwe (Case Study)

- Bourbon, *Human Rights Litigation in Zimbabwe: Past, Present and Future*, (2003) 3 AFRICAN JOURNAL OF HUMAN RIGHTS LAW 195
- “Attacks on the Rule of Law” in *Zimbabwe: human rights in crisis, Shadow Report to the African Commission on Human and Peoples’ Rights*, May 2007

Community Organizing

Thursday, 1 October: Introduction and First Case study (This is a public holiday so make-up class date and time to be advised)

- Ballard, Habib, Valodia & Zuern, “Introduction: From Anti-Apartheid to Post-Apartheid Social Movements” in VOICES OF PROTEST
- Friedman & Mottiar “Rewarding Engagement?: The Treatment Action Campaign and the Politics of HIV/AIDS,” *UKZN Globalisation, Marginalisation and New Social Movements in post-apartheid South Africa project*, Centre for Policy Studies and UKZN (2004)

Monday, 5 October: South Africa Land Reform Case study

- Greenberg, “The Landless People’s Movement and the Failure of Post-apartheid Land Reform” (2004)
- Mngxitama “The National Land Committee, 1994-2004: A Critical Insider’s Perspective.” *Centre for Civil Society Research Report No 34*.

Thursday, 8 October: Housing Rights Case Study: Abahlali baseMjondolo

Note to students: please take a look at the *Abahlali* website: www.abahlali.org to get a sense for the movement and its strategies.

- Zikode, “We are the Third Force” available at <http://www.abahlali.org/node/17>
- Ngiam, “Taking Poverty Seriously: What are the poor saying and why it matters,” Centre for Public Participation (2006)
- Gibson, *A New Politics of the Poor Emerges from South Africa’s Shantytowns* 43 JOURNAL OF ASIAN AND AFRICAN STUDIES 5 (2008)

Optional: Pithouse, *Our Struggle is Thought, on the Ground, Running: The University og Abahlali Basemjondolo*

Lobbying and Standard-setting

Monday, 12 October: International Criminal Court Case Study

- Glasius, *THE INTERNATIONAL CRIMINAL COURT: A GLOBAL CIVIL SOCIETY ACHIEVEMENT*, (Routledge) (2006) pp 1-46, 111-130
- Geis & Mundt, “When to Indict? The Impact of International Criminal Indictments on Peace Processes and Humanitarian Action,” The Brookings Institute-University of Bern Project on International Displacement (February 2009).

IV. Reflections on Civil Society Engagement with Human Rights

Thursday, 22 October

- Kennedy, *Boundaries in the Field of Human Rights: The International Human Rights Movement: Part of the Problem?*, 15 HARVARD HUMAN RIGHTS JOURNAL 101 (2002)
- Rieff, "The Precarious Triumph of Human Rights, New York Times Magazine, Aug. 8, 1999 in Steiner & Alston at 967-970

Monday, 19 October

Wrap-up