

Human Rights and Development: Case Studies

Syllabus Fall 2016

Wednesdays – 8.00 – 9.50pm
Room 403, 66 West 12th St.

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Office Hours: Wednesdays 4-5.30pm; Thursdays 4-5.30pm or by appointment.

Sign up for regular office hour slots on this link

<https://www.google.com/calendar/selfsched?sstoken=UUIIZnZrWHFNOFVGfGRIZmF1bHR8NjMxZWExZml3NDY0ZGJmZWNiODMyODMxMml0ZjZlYzQ>

Course description

Human rights and development evolved separately as fields of scholarship and practice. An important development since the 2000s has been the convergence of these two fields. The human rights community began to focus on poverty as a major human rights challenge of the twenty first century, while the development community began to consider realizing human rights as a fundamental purpose of development. The course explores current debates on theory and practice of human rights related to development: critique and defense of the human rights based development approach; use of human rights standards and norms to analysis of economic and social policies; the role of local social movements and international advocacy networks to advance human rights; the effectiveness of litigation and perverse consequences; controversies about universality and cultural relativism; social and economic rights as human rights.

The course is designed as an independent research project to develop a case study on a theme selected by the student. Each student will develop a case study on human rights and poverty (such as the right to housing, access to patented drugs, rights of migrant workers, or human trafficking) and through this process gain an in-depth understanding of the theory of human rights and the intersection between human rights advocacy and development practice. The course is structured as a sequence of steps to develop the case study.

Pre-requisites

The course is for students with some background in human rights, poverty and international development as well as a demonstrated ability to do independent research and writing.

Course requirements and grading

Assignments and grading will include:

- Assignment 1: Note on case description (10%). A short note (2-4 pages) describing the case including at least one paragraph on each of the following: (i) background facts of the case; (ii) the rights holder and their rights; (iii) the duty bearer and their obligations; (iii) what would constitute 'violation' of rights in your case. Write a para stating your research question. Minimum 1000 words
- Assignment 2: Note on literature review (10%). A short paper (2-4 pages) identifying key conceptual and policy issues related to the case including: (i) conceptual debates; (ii) policy debates; (iii) alternative arguments; (iv) key authors.
- Classroom participation (10%): Participation is an essential part of this class. Only one absence will be excused. The participation grade will be based on attendance, presentations, and contribution to class discussions.
- First draft case study – first draft (10%): paper in two parts: a description and an analysis. Each part should be at least 4000 words for a total of 8000 words minimum. You may write more.
- Final draft case study – second draft (60%)

SGPIA Portfolio Option

The course fulfills the portfolio option requirements for SGPIA students. This process will involve submission of a draft and revisions to take account of comments. A grade of at least B+ for the final paper will be required to qualify. Students should familiarize themselves with the guidelines provided in the advising sheet.

Communications

- Email: The class will communicate by the New School - NOT your personal email account.
- Course website: Readings and announcements will be on the course Canvas. Please upload your personal profile on the course page so that we can get to know one another.

Useful sources

Reference books on concepts and theory of human rights and development:

Uvin, Peter. 2004. *Human Rights and Development*, Kumarian Press, Bloomfield, CT. (available in New School e-library)

Donnelly, Jack. 2006. *Universal Human Rights: In Theory and Practice. (Third edition)* Westview Press.

UNDP (2000). Human Development Report: Human Rights. Oxford University Press.

Susan Marks and Andrew Clapham, (2005). *International Human Rights Lexicon*, Oxford University Press, Oxford. And companion website:
<http://www.internationalhumanrightslxicon.org/contents.html>

Fukuda-Parr, Sakiko, Terra Lawson-Remer, Susan Randolph (2015) *Fulfilling Social and Economic Rights* (Oxford University Press)

Useful websites sources:

UN Office of the High Commissioner for Human Rights (OHCHR):
<http://ohchr.org/english/>

Center for Economic and Social Rights <http://cesr.org>

Open Global Rights blogs: <https://www.opendemocracy.net/openglobalrights>

SUR International Journal on Human Rights <http://sur.conectas.org/en/>

COURSE OUTLINE

Timeline

Date	Class topic	Case research timeline	Assignments and Events
1. Aug 31	Introduction	Select case	
2. Sept 7	What are human rights	Select case	
3. Sept 14	Guest lecture by Sheila Dauer - Amnesty campaign on violence against women	Select case	Submit one para description of case for approval.
4. Sept 21	Norms and principles – International human rights	Identify rights and obligations. Frame research question. Develop research plan.	
5. Sept 28	Norms and principles – human rights and poverty		Short note on case due

6. Oct 5	Claiming rights – beyond victimisation	Literature review	
7. Oct 12/ Oct 13	No regular class – Yom Kippur (Oct 12). Individual meetings on Oct 12 (4-8pm) and Oct 11 (4-7pm)	Literature review	
8. Oct 19	Claiming rights – in the streets, courts and parliaments	Case research	short note on literature review
9. Oct 26	Claiming rights – macroeconomic policies	Case research	
10. Nov 2	Claiming rights – potential and limits of litigation	Case research	
11. Nov 9	Norms and principles: Globalisation and extra territorial obligations	Case research	
12. Nov 16	Norms and principles - corporations	Draft paper	
Nov 22 *Tuesday Thanksgiving week		Draft paper	Nov 21 First draft due
13. Nov 30	Individual meetings	Revise paper	
14. Dec 7	Student debate	Revise paper	
			Dec 14 Final paper due.

Topics

1. Introduction to the course

Overview of course objectives, content and structure.

- Requirements and expectations.
- Case study selection.
- Discussion – human rights and poverty
- Core questions and concepts to be covered in the class

Required readings

UN (1948). *Universal Declaration of Human Rights*
<http://www.un.org/en/documents/udhr/>

Khan, Irene (Amnesty International) (2009). Chapter 1, *The Unheard Truth: Poverty and Human Rights*, New York: W.W. Norton & Co.

2. What are human rights – alternative perspectives

Required readings:

Sen, Amartya (2004). 'Elements of a Theory of Human Rights'. *Philosophy and Public Affairs* 34:4

Donnelly, Jack (2003), chapter 1 "The Concept of Human Rights" (pp. 7-18)

Farmer, Paul (2005), *Pathologies of Power: Health, Human Rights and the New War on the Poor* Berkeley: University of California Press, chapters 1 and 9. Available from New School E Library
<http://site.ebrary.com/lib/newschool/docDetail.action?docID=10058550>

Fukuda-Parr, Sakiko, Terra Lawson-Remer, Susan Randolph (2015). Chapters 1 & 2. *Fulfilling Social and Economic Rights*, OUP

Shue, Henry (1996). *Basic Rights: Subsistence, Affluence and US Foreign Policy (Second edition)* Princeton University Press. Section 1: 'Three Basic Rights' (pp.11-65)

3. Claiming rights –Amnesty campaign on violence against women

Guest speaker: Sheila Dauer

- Global and local norms
- Role of international NGOs and networks

Required readings

Amnesty International Report. Stop VAW: It's In Our Hands, 2004
act770012004en.pdf Ch.1, 6. 9
<https://www.amnesty.org/en/documents/act77/003/2004/en/>

UN CEDAW and DEVAW

Keck and Sikkink. Ch. 1, "Transnational Advocacy Networks in International Politics" in *Activists Beyond Borders*, 1998

CEJIL Brazil: DV and Maria da Penha case <https://cejil.org/en/cases/maria-da-penha>

Easton et al "Social Policy from the Bottom Up: Abandoning FGC in Sub-Saharan Africa" *Development in Practice*, 13:5, 445-458

Sally Engle Merry. "Transnational human rights and local activism: mapping the middle" in *American Anthropologist* March 2006, 108

4. Human rights as norms and principles, rights and obligations: international human rights

- Core concepts and standards of international human rights.
- International law
- Norms and social context
- Rights and obligations
- Accountability and enforcement

Required readings

OHCHR website. Please familiarize yourself with how this website is organized and what material it contains. <http://www.ohchr.org/EN/Pages/Home.aspx>

UN Committee on Economic, Social and Cultural Rights (CESR), *General Comment 3 on the International Covenant on Economic, Social and Cultural Rights* <http://www2.ohchr.org/english/bodies/cescr/comments.htm>

United Nations (1966). *International Covenant on Economic, Social and Cultural Rights (ICESCR)* www.ohchr.org

United Nations (1966). *International Covenant on Civil and Political Rights (ICCPR)* www.ohchr.org

United Nations (1993) *Vienna Declaration and Programme of Action* <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>

United Nations (1996) *Declaration on the Right to Development* <http://www.un.org/documents/ga/res/41/a41r128.htm>

United Nations (2000). *The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*. UN doc. E/C.12/2000/13. New York: United Nations. http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html

Fukuda-Parr et al (2015) *Fulfilling Social and Economic Rights* Chapter 2

5. Norms and principles - Human Rights and poverty

- Human rights norms and development

- Critique of development from human rights perspectives
- Power
- Accountability

Required readings

Yamin, Alicia (2016) *Power, Suffering and the Struggle for Dignity*. Pennsylvania University Press. Chapter 2

Amartya Sen (1999) *Development as Freedom*. Introduction; Chapter 2

OHCHR (2004) *Human Rights and Poverty Reduction: A Conceptual Framework* (New York and Geneva, United Nations, 2004)
<http://www2.ohchr.org/english/issues/poverty/docs/povertyE.pdf>

UN/OHCHR (2008) *Claiming the Millennium Development Goals: A Human Rights Approach*. UN, Geneva. Pp.1-15
http://www.ohchr.org/Documents/Publications/Claiming_MDGs_en.pdf

Uvin, Peter (2004). *Human Rights and Development*, Kumarian Press, Bloomfield, CT. Chapter 6 “A Rights-Based Approach to Development” and chapter 7 “Final Synthesis and Questions”
<http://site.ebrary.com.libproxy.newschool.edu/lib/newschool/docDetail.action?docID=10141034&p00=human%20rights%20development>

Supplemental readings:

Fukuda-Parr, Sakiko (2013). ‘Human rights and politics of development’ chapter 10 in Goodhart, M. (ed) *Human Rights: Politics and practice*, Oxford University Press 2nd edition

Ravi Kambur, 2001. ‘Economic Policy, Distribution and Poverty: The Nature of Disagreements. *World Development*, 29:6 pp. 1083-1094

6. Claiming rights - Beyond victimization

Required readings

Kapur, Ratna (2002) ‘The Tragedy of Victimization Rhetoric: Resurrecting the “Native” Subject in International/Post-Colonial Feminist Legal Politics’, *Harvard Human Rights Law Journal* 15. P.1

Abu-Lughod, Lila (2002). ‘Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others’ *American*

Anthropologist 105.3, p 783-790

Mutua, Makau. 2001. "Savages, Victims and Saviors: The Metaphor of Human Rights" *Harvard International Law Review*.

Kabeer, Naila. *Globalisation, labour standards and women's rights: dilemmas of collective action in an interdependent world* IDS Globalization and Poverty Research Programme
<http://www.gapresearch.org/production/globlabourwomen.pdf>

7. Claiming rights – in the streets, courts and parliaments

Required readings

Hertel, Shareen (2015) "Right to Food Advocacy in India: Possibilities, Limitations and Lessons Learned" chapter 11 in Fukuda-Parr and Taylor, eds. *Food Security in South Africa: Human Rights and Entitlement Perspectives*

Ruparelia, Sanjay (2013) India's New Rights Agenda: Genesis, Promises, Risks. *Pacific Affairs* 86:3 569-590

Ruparelia, Sanjay (2013) A Progressive Juristocracy? The Unexpected Social Activism of India's Supreme Court. Kellogg Institute for International Studies Working Paper #391

Supplementary readings

Doug McAdam, John D. McCarthy, Mayer N. Zald, editors, (1996) *Comparative Perspectives on Social Movements*. Cambridge, UK: Cambridge University Press. Chapter 6 (by McCarthy) and 11 (by Zald).

Sidney Tarrow, *Power in Movement: Social Movements & Contentious Politics*, 2nd edition (1998) Cambridge, UK: Cambridge University Press. Chapters 6 and 8

8. Claiming rights – macroeconomic economic policies

Required readings:

Balakrishnan, Radhika and Diane Elson 2008. "Auditing Economic Policy in the Light of Obligations on Economic and Social Rights" *Essex Human Rights Review* 5:1

Fukuda-Parr, Sakiko (2015) *Food Security in South Africa: Human Rights and Entitlement Perspectives* chapters 1 and 13

CESR (2012) *Assessing fiscal policies from a Human Rights Perspective*.
http://www.cesr.org/downloads/assessing_fiscal_policies_from_a_human_rights_perspective.pdf

Supplemental readings:

Elson, Diane (2006). 'Budgeting for Women's Rights: Monitoring Government Budgets for Compliance with CEDAW'
http://www.unifem.org/materials/item_detail.php?ProductID=44

9. Claiming rights: potential and limits of litigation

Required readings

Gauri, Varun and Daniel Brinks (2008), Introduction: The Elements of Legalization and the Triangular shape of Social and Economic Rights, chapter 1, *Courting Justice* Gauri and Brinks, eds. Cambridge University Press

Yamin, Allicia and Siri Gloppen eds (2011) chapter1, chapter 12 *Litigating Health Rights: Can Courts Bring More Justice to Health*, Harvard University Press

Mahajan, Manjari (2012) The Right to Health as the Right to Treatment: Shifting Conceptions of Public Health, *Social Research*

10. Norms and principles: Globalisation and extra territorial obligations (ETO)

Scan webpage of the ETO consortium <http://www.etoconsortium.org/>

De Schutter et al 2011 Commentary on the Maastricht Principles on the Extra-territorial Obligations of States in the Area of Economic, Social and Cultural Rights *Human Rights Quarterly*

Example: access to medicines

Forman, L and G. MacNaughton (2015) Moving Human Rights into Practice: Human Rights Impact Assessment of Intellectual Property Rights. *Journal of Human Rights Practice* 17.1 109-13

11. Norms and principles - Rights and obligations of corporations

Ramasastri, Anita (2015) "Corporate Social Responsibility versus Business and Human Rights: Bridging the Gap between Responsibility and Accountability"
Journal of Human Rights 14.2

UN OHCHR (2011) *Guiding Principles on Business and Human Rights*

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

Case: gender equality and taxation

Berne Declaration et al (2016) “State Responsibility for the Impacts of Cross-border Tax Abuse on Women’s Equality and Gender Equality”

http://www.cesr.org/downloads/Switzerland_CEDAW_Submission_TaxFinance_1mar2016.pdf

12. Debate on two topics

Panel 1: Are socio-economic rights human rights?

Required readings

Roth, Kenneth (2004) “Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization” *Human Rights Quarterly* 63-73

Selections from OpenGlobalRights debate on economic and social rights
<https://opendemocracy.net/openglobalrights/debating-economic-and-social-rights>

Additional resources:

Responses by:

- Mary Robinson (2004) “Advancing Economic, Social and Cultural Rights: The Way Forward” 866-872
- Leonard Rubenstein (2004) “Response to Kenneth Roth” 845-865
- Kenneth Roth (2004) “Response to Leonard Rubenstein”
- Leonard Rubenstein (2004) “Response by Leonard Rubenstein”

Minkler, Lanse (2013) Chapter 1: “Introduction: Why Economic and Social Rights?,” in Minkler, *The State of Economic and Social Rights: A Global Overview*. Cambridge University Press

Panel 2: Universality – are international human rights universal?

Required readings:

Lee Kwan Yew, 2001. ‘Culture is Destiny’. In Meijer, ed. *Dealing with Human Rights: Asian and Western Views on the Value of Human Rights*, Kumarian Press, Bloomfield, CT.

Sen, Amartya 1997. “Human Rights and Asian Values” Carnegie Council on Ethics and International Affairs

Additional readings:

Donnelly, Jack. 2007. 'The Relative Universality of Human Rights' *Human Rights Quarterly*, Vol 29. pp. 281-306 (A classic, much referred to piece)

Li, Xiaorong. 2001. "Asian Values and the Universality of Human Rights". Chapter 36 in Patrick Hayden, ed. *The Philosophy of Human Rights*