

**The University of Chicago**  
**Human Rights 3: Contemporary Issues in Human Rights**  
**Fall Quarter 2007**

(HMRT 20300/30300; Law 57900; History 29500/39500; CIR/INRE 57900;  
GSHUM 28900/38900; LLSO 27200)

Lecture - Monday 3:00 – 4:20 p.m. – Harper 140

Discussion sections Wednesday 3:00 or 4:30 p.m.

**Instructor**

**Susan Gzesh**, Director, Human Rights Program & Senior Lecturer in the College and  
Center for International Studies – email: [sgzesh@uchicago.edu](mailto:sgzesh@uchicago.edu)

office hours: Wednesdays, 1:00 -2:00 pm; Thursdays 9:30 – 10:30, Pick 102

Teaching assistants: Kerry Chance, Beatriz Jauregui, Department of Anthropology

**October 9, 2007 syllabus**

This course will examine the contemporary human rights system, including international, regional and national legal conventions, in relation to selected contemporary human rights problems. We will examine the origins of the current regime, the uses and limitations of the international treaty system, and the relationship between international obligations and domestic implementation. Problems of rights enforcement will be related to issues of sovereignty, justiciability, culture, and foreign and domestic politics. We will use contemporary cases to examine such topics as torture, women's rights, the conflict between universalism and cultural relativism, and economic, social & cultural rights including the right to health care and the right to development. We will integrate a review of the roles of major actors in the violations and protection of human rights into the topical material; such actors will include official human rights monitoring bodies and tribunals, non-governmental organizations (NGOs), national and local governments, religious bodies, photographers and film-makers, and lawyers and doctors, as well as individual victims and their families. .

The course will consist of a 1 \_ hour weekly lecture and discussion with the entire class on Monday, followed by 1 \_ hour weekly discussion sections on Wednesday. Lectures will be delivered according to the attached syllabus. In addition to the listed readings, students should read the *New York Times* or a major international paper on a daily basis and bring current issues to class.

**Required books:**

Center for the Study of Human Rights, Columbia University, Twenty Five-Plus Human Rights Documents (a/k/a “The Little Red Book”), 2001;

John Conroy, Unspeakable Acts, Ordinary People, 1999

Mary Ann Glendon, A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights, Random House, 2001

**Recommended books (background reading):**

Susan Sontag, Regarding the Pain of Others, Picador Press, 2003

## **Course requirements:**

All students will be required to attend class and discussion section on a regular basis. Repeated absences will result in a lowered grade. Each student will complete a midterm paper of 3 – 5 pages which will serve as a topic proposal for the final paper of 15 – 18 pages (College students); 18 – 22 pages (graduate and professional students). A guide to selecting and researching human rights papers will be distributed in class prior to the mid-term assignment.

## **Classes and readings**

### **Week 1, September 24 – 26 – Introduction to human rights for U.S. students**

#### **Monday class:**

This introductory lecture and discussion will involve students in the fundamental questions about the origins of the modern international human rights regime. The initial lecture-discussion class will cover the origins of the Universal Declaration on Human Rights and the role of the U.S in its development, the differences between the domestic U.S. conception of civil rights and the international standards of human rights, sovereignty questions and the issue of U.S. “exceptionalism,” the interplay between international and regional human rights conventions, etc.

Students will be assigned to discussion groups during class.

#### **Reading:**

Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*, Random House, 2001; please read as much of the book as possible before the first class

#### **Wednesday class: Understanding the world of human rights advocacy:**

A major theme of this course throughout the term will be the work of human rights non-governmental organizations and other civil society groups active in human rights advocacy. Each student should pick a human rights organization and be prepared to brief the discussion group about the agency or organization, its mission and priorities, its financial base (where the information is available); a major on-going advocacy campaign.

#### **Suggested organizations or agencies (you are not restricted to this list):**

All of these organizations have websites: Amnesty International; B’Tselem (Israel); the Center for Constitutional Rights; Center for Economic, Social, and Cultural Rights; Center for Victims of Torture; Centre on Housing Rights and Evictions (Switzerland and multiple sites); Comision Mexicana para la Promocion y Defensa de los Derechos Humanos (Mexico); Global Rights; Human Rights First (formerly Lawyers Committee for Human Rights); Human Rights Watch; Kovler Center for Survivors of Torture; Medicins San Frontieres (Doctors without Borders - France), Minnesota Advocates for Human Rights, and Physicians for Human Rights.

## **Week 2 (October 1 - 3) Torture: what is it?**

Over the next four weeks, we will examine the issue of torture, public attitudes in the past and present, as well as domestic and international cases. Questions for discussion over the next four weeks will include:

- 1) What constitutes torture, as well as the “cruel, inhuman, and degrading treatment,” prohibited by the Convention Against Torture?
- 2) Are coerced confessions inherently unreliable? If so, why do police and military forces use torture when they think the practice will escape detection or be tolerated?
- 3) Should the absolute prohibition on the use of torture in interrogation be suspended during crisis periods or states of exception? What constitutes a “state of exception?”
- 4) How are allegations of torture regarded in international legal fora? How can the U.S. courts be utilized to obtain justice for victims of torture in the U.S. or in other countries? What has been the experience of torture victims (and their torturers) in various post-conflict reconciliation processes?

The first class will consider changing norms and attitudes about torture and the use of images to move people to action.

### **Readings:**

Hilton Als, James Allen, et al. *Without Sanctuary*, an on-line photography exhibit about lynching in America; we recommend you watch the flash movie (approx. 5 minutes) but be warned that many of the images are quite disturbing:

<http://withoutsanctuary.org/main.html>

Ariel Dorfman, “The Tyranny of Terror: Is Torture Inevitable in Our Century and Beyond?” in *Torture: A Collection*, edited by Sanford Levinson, Oxford University Press, 2004, pp. 3- 18 (on Chalk site as .pdf file)

Michel Foucault, “Torture: the Body of the Condemned” from *Discipline and Punish*, pp. 3 – 31, available as .pdf file on Chalk site

Susan Sontag, “On Regarding the Pain of Others,” 2003, (students who do not wish to buy the book can read an excerpt at:

<http://www.susansontag.com/regardingpainexcerpt.htm> (For a recorded interview with Susan Sontag and a gallery of the photos in “Regarding the Pain of Others,” go to: [http://www.onpointradio.org/shows/2003/05/20030508\\_b\\_main.asp](http://www.onpointradio.org/shows/2003/05/20030508_b_main.asp))

Susan Sontag, “On Regarding the Torture of Others,” 2004

<http://donswaim.com/nytimes.sontag.html>

## **Legal instruments prohibiting torture and cruel, inhuman, and degrading treatment**

U.N. Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, (in the Red Book) or  
[www.unhcr.ch/html/menu3/b/h\\_cat39.htm](http://www.unhcr.ch/html/menu3/b/h_cat39.htm)

### **Additional images of torture and cruel, inhuman and degrading treatment**

Matthew Moore, "The Photos America Doesn't Want to See," *Sydney (Australia) Morning Herald*, February 15, 2006  
<http://smh.com.au/news/world/the-photos-america-doesnt-want-seen/2006/02/14/1139890737099.html>

### **Additional reading (for Wednesday discussion groups)**

Elaine Scarry, *The Body in Pain*, Chapter 1, on Chalk as .pdf

### **Film showing for week 3 classes:**

Several showings of the classic film *The Battle of Algiers* will be scheduled for October 3, 4, and 5.

### **Week 3: (October 8 & 10, 2007) Torture and states of exception/ states of emergency**

Are human rights universal and apply to everyone, everywhere, all the time? What is a state of emergency? Are some human rights "derogable" during states of emergency? What happens to human rights in wartime? Are some individuals, by virtue of their status or conduct, not protected by human rights? Is torture absolutely prohibited? This week examines cases studies from Algeria, Israel, and the U.S.

### **Required readings & film:**

#### **Background – philosophical and historical perspectives on the use of torture in the "modern" era**

- 1) Giorgio Agamben, "A Brief History of the State of Exception," from *State of Exception*, <http://www.press.uchicago.edu/Misc/Chicago/009254.html>
- 2) David Luban, "Eight Fallacies about Liberty and Security," in *Human Rights in the 'War on Terror'*, Richard Wilson, ed., Cambridge University Press, 2005, (on Chalk)

#### **Case studies:**

- 1) *Battle of Algiers*, directed by Gillo Pontecorvo, 1966 – two articles about the film may be found at:
  - a) Derek Malcolm, "Gillo Pontecorvo: The Battle of Algiers," July 20, 2000, [http://film.guardian.co.uk/Century\\_Of\\_Films/Story/0,,345300,00.html](http://film.guardian.co.uk/Century_Of_Films/Story/0,,345300,00.html), and
  - b) Charles Paul Freund, "The Pentagon's Film Festival: A primer for The Battle of Algiers." Aug. 27, 2003, [www.slate.com](http://www.slate.com) (on Chalk);
- 2) Eitan Felner, "Torture and Terrorism: Painful Lessons from Israel," *Torture*, Roth & Worden, ed., Human Rights Watch, 2005, pp. 28-43 (on Chalk)
- 3) Miriam Gur-Arye, "Can the War against Terror Justify the Use of Force in Interrogations? Reflections in the Light of the Israeli Experience," in Sanford Levinson, ed., *Torture: A Collection*, pp. 183-198, (on Chalk)

- 4) Marie-Monique Robin, “Counterinsurgency and Torture: Exporting Torture Tactics from Algeria and Indochina to Latin America,” *Torture*, pp. 44-54 (on Chalk)
- 5) Rita Maran, *Torture: the Role of Ideology in the French-Algerian War*, Praeger, 1989: “Introduction,” pp. 1-35 (on Chalk)

**Legal instruments and court decisions:**

Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, (in the Red Book) or [www.unhchr.ch/html/menu3/b/h\\_cat39.htm](http://www.unhchr.ch/html/menu3/b/h_cat39.htm);

European Convention on Human Rights, Article 3 (Little Red Book)

Supreme Court of Israel, “Judgment Concerning the Legality of the General Security Service’s Interrogation Methods,” decision on Chalk as .pdf

Human Rights Watch, “Summary of International and U.S. Law Prohibiting Torture and Other Ill-treatment of Persons in Custody,” May, 2004, at: <http://hrw.org/english/docs/2004/05/24/usint8614.htm>

Office of the High Commissioner of Human Rights, United Nations, “Terrorism and Human Rights,” <http://www.unhchr.ch/terrorism/index.html> - link to Digest of Jurisprudence of the United Nations and regional organizations on the Protection of Human Rights while Countering Terrorism

**Optional reading:**

Geneva Convention relative to the Treatment of Prisoners of War, at: <http://www.unhchr.ch/html/menu3/b/91.htm>

Mark Osiel, “The Mental State of Torturers: Argentina’s Dirty War,” in Levinson, ed., pp. 129 – 141 (on Chalk)

**Week 4 (October 15 & 17) Torture and U.S. law: striking the balance between security and rights in Guantanamo and beyond**

Since the attacks on the World Trade Center and the Pentagon of 9/11, the Bush administration has reconceptualized torture by: reframing the severity of the harm (“stress and duress”), utilizing the issue of location (“extraterritoriality”), distinguishing treatment based on citizenship, and inventing “enemy combatant” to distinguish the status of those not covered by the Geneva Conventions. How was this done, and how persuasive is it? This week the class will examine the rationale surrounding four distinct anti-terrorism programs created since 9/11 using the lens of international human rights. Students are urged to read the background articles by David Cole, Jack Goldsmith, and Mark Danner, each of whom has a somewhat different perspective and interest. Students may also be interested in any or all of the four case studies: :

- 1) extraordinary rendition, whereby foreign nationals are sent by the U.S. for interrogation in other countries (foreigners arrested mostly off-shore and detained outside the territory of the U.S.);
- 2) the creation of a prison at the U.S. military base in Guantanamo, Cuba for the indefinite incarceration and interrogation of “unlawful enemy combatants” (foreigners detained outside the U.S. and kept in custody in a territory that is under the jurisdiction and control of the U.S, but not part of the U.S.);

- 3) the designation of U.S. citizens on U.S. soil as “enemy combatants” and the legal limits on the length or conditions of their detention (as in the Jose Padilla case); and
- 4) the detention in the U.S. of immigrants (both authorized and not) suspected of having possible ties to terrorism (detention of foreign nationals but on U.S. soil).

### **Articles by and about Mark Danner, David Cole, and Jack Goldsmith**

- 1) **David Cole, Professor of Law, Georgetown University** – most of his writings are about security issues inside the U.S. Cole has also represented many persons accused of ties to or support of terrorism, both in the U.S. and on Guantanamo.

David Cole, “The Lessons of Jose Padilla’s Conviction,” *The Nation*, Aug. 27, 2007, at

<http://www.thenation.com/doc/20070827/cole> ; and

David Cole & Jules Lobel, “Why We’re Losing the War on Terror,” in *The Nation*, Sept. 27, 2007, [http://www.thenation.com/doc/20070924/cole\\_lobel](http://www.thenation.com/doc/20070924/cole_lobel)

(Other articles by David Cole in the New York Review of Books at:

<http://www.nybooks.com/authors/10813> )

2) **Mark Danner** – this series of *New York Review of Books* (NYRB) articles about the U.S. prison at Abu Ghraib have been collected in Danner’s book *Torture and Truth*, NYRB, 2004. Mark Danner teaches journalism and human rights courses at both UC-Berkeley and at Bard College.

Mark Danner, “Torture and Truth,” *NYRB*, May 12, 2004:  
<http://www.nybooks.com/articles/17150>

Mark Danner, “The Logic of Torture,” *NYRB*, May 27, 2004:  
<http://www.nybooks.com/articles/17190>

- 3) **Jack Goldsmith, Professor of Law, Harvard University** – writes about Executive authority, national security, and international law. From October 2003 to July 2004 he served under Attorney General John Ashcroft in the Department of Justice Office of Legal Counsel which provides legal opinions and advice to the President.

Jack Goldsmith & Neal Katyal, “The Terrorists’ Court,” *New York Times*, July 11, 2007  
<http://www.nytimes.com/2007/07/11/opinion/11katyal.html>

Daniel Klaidman, Stuart Taylor Jr. and Evan Thomas, “Palace Revolt,” *Newsweek*, Feb. 6, 2006 (the story of Jack Goldsmith’s role in the OLC.)  
<http://www.msnbc.msn.com/id/11079547/site/newsweek/>

Geoffrey Stone (Professor, former Law School Dean and Provost of the University), “Securing the homeland,” *Chicago Tribune*, October 6, 2007, (a review of Jack Goldsmith’s new book, *The Terror Presidency: Law and Judgment Inside the Bush Administration*) <http://www.chicagotribune.com/features/lifestyle/chi-terrorbw06oct06,0,4428069.story>

### **Legal instruments and NGO reports (in general):**

Protocol Additional to The Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977, Art. 43-56  
<http://www.unhchr.ch.html/menu3/b/93.htm>

Convention Against Torture and Other Cruel, inhuman, and Degrading Treatment (Red Book)

American Bar Association, “Report and Recommendations to the ABA House of Delegates” [on the complete prohibition of torture], adopted by voice vote, August, 2004;  
[www.abanet.org/media/docs/torturereport10b.pdf](http://www.abanet.org/media/docs/torturereport10b.pdf)

Human Rights Watch, *Examples of Torture and Other Cruel, Inhuman or Degrading Treatment Condemned in the U.S. State Department’s 2003 Country Reports on Human Rights Practices*, at  
[http://hrw.org/campaigns/torture/methods/stress\\_duress.htm](http://hrw.org/campaigns/torture/methods/stress_duress.htm)

### **Other optional material:**

#### **1) Extraordinary rendition and use of torture**

Jane Mayer, “The Black Sites: A rare look inside the C.I.A.’s secret interrogation program,” *The New Yorker*, August 13, 2007 (on Chalk);

Jane Mayer, “Outsourcing Torture”, *The New Yorker*, 2004, on Chalk

Center for Constitutional Rights website on Maher Arar case “No More Secrets” – links to YouTube video on case, etc. <http://www.ccr-ny.org/v2/nomoresecrets/>

#### **2) Guantanamo & Abu Ghraib**

### **Reports by journalists:**

Seymour Hersh, “Annals of National Security : Torture at Abu Ghraib,” *The New Yorker*, Issue of May 10, 2004 [http://www.newyorker.com/fact/content/?040510fa\\_fact](http://www.newyorker.com/fact/content/?040510fa_fact)

Seymour Hersh, “Annals of National Security : Chain of Command,” *The New Yorker*, Issue of May 17, 2004 [http://www.newyorker.com/fact/content/?040517fa\\_fact2](http://www.newyorker.com/fact/content/?040517fa_fact2)

Commentary on the June 2006 Supreme Court ruling *Hamdan v. Rumsfeld*: Nina Totenberg on National Public Radio (audio link):  
<http://www.npr.org/templates/story/story.php?storyId=5521923>

### **U.S. government documents (a selection):**

Sec. of Defense Donald Rumsfeld in: *Afghan Detainees at Gitmo Bay will not be granted POW status*, FOX News, January 8, 2002 at

[www.foxnews.com/story/0,2933,44084,00.html](http://www.foxnews.com/story/0,2933,44084,00.html) (lots of other documents are linked to this website)

Memorandum for Alberto R. Gonzales, Counsel to the President, from Assistant Attorney Jay S. Bybee, *Re: Standards of Conduct for Interrogation under 18 U.S.C. Sec. 2340-2340A*, (August 1, 2002), at

[www.washingtonpost.com/wp-srv/nation/documents/dojinterrogationmemo20020801.pdf](http://www.washingtonpost.com/wp-srv/nation/documents/dojinterrogationmemo20020801.pdf)

*Action Memo for Secretary of Defense*, from William J. Haynes, General Counsel, *Counter-Resistance Techniques*. 27 November 2002. Approved by Secretary of Defense Donald Rumsfeld, 2 December 2002, at

[www.defenselink.mil/news/Jun2004/d20040622doc5.pdf](http://www.defenselink.mil/news/Jun2004/d20040622doc5.pdf)

### **U.N. Human Rights report:**

UN Commission on Human Rights, *Situation of Detainees at Guantanamo Bay*, 15 Feb 2006, Chapter 3 “Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment,” pp. 21-27

[http://www.ohchr.org/english/bodies/chr/docs/62chr/E.CN.4.2006.120\\_.pdf](http://www.ohchr.org/english/bodies/chr/docs/62chr/E.CN.4.2006.120_.pdf)

### **3) Jose Padilla – “enemy combatant” and U.S. citizen**

Human Rights First (formerly Lawyers Committee for Human Rights) has put together an archive of all the documents on the Padilla case, with a useful summary of the issues, at:

[http://www.humanrightsfirst.org/us\\_law/inthecourts/supreme\\_court\\_padilla.htm](http://www.humanrightsfirst.org/us_law/inthecourts/supreme_court_padilla.htm)

### **4) arrest and detention of foreigners with possible connections to terrorism -**

Human Rights Watch, “Presumption of Guilt: Human Rights Abuses of post-September 11 Detainees,” <http://hrw.org/reports/2002/us911/>

Muzaffar Chisthi, Doris Meissner, et al, “America’s Challenge: Domestic Security, Civil Liberties, and National Unity after September 11,” Migration Policy Institute, 2003, executive summary available at:

[http://www.migrationpolicy.org/pubs/Americas\\_Challenges.pdf](http://www.migrationpolicy.org/pubs/Americas_Challenges.pdf)

Susan Gzesh, “America’s Human Rights Challenge: International Human Rights Implications of Post-9/11 Enforcement,” Migration Policy Institute, 2006, at:

[http://www.migrationpolicy.org/pubs/Americas\\_Human\\_Rights\\_Challenge\\_1006.pdf](http://www.migrationpolicy.org/pubs/Americas_Human_Rights_Challenge_1006.pdf)

## **Week 5 (October 22 & 24): Representations of Justice: Tactics and Remedies: Argentina and Chicago cases considered**

**Note:** There are two case studies presented in these materials. Students are encouraged to pick one or the other (Argentina and Chicago) and read all the materials for that case – and reading at least the narratives for the other. Of course, you are encouraged to read all the material for both cases. While the scale of these two cases are vastly different, one may draw comparisons regarding issues such as official denial, impunity, the role of civil society and the interplay between international and domestic actors.

**Argentina’s Dirty War** In the 1970s in Argentina, a military dictatorship engaged in the brutal practices against critics or opponents of the regime – journalists, students, union leaders. It is estimated that 30,000 people (mostly young men and women) were “disappeared,” tortured, and murdered by the military. The U.S. government had previously considered Argentina’s military leaders to be friendly to its economic interests in the region, but later the Carter administration began to put diplomatic pressure on the junta. Groups such as the Madres de la Plaza de Mayo played an important role the quest for justice. Ultimately, the Argentine people themselves tossed out their rulers and reinstated the rule of law. Over the past two decades, Argentine society has supported a long, slow process of justice and reconciliation.

**Chicago police torture cases:** In the 1980s, over 100 African American men and women were tortured as part of routine interrogation practices at the Area 2 Chicago Police Department district station, only two miles from the University of Chicago campus. The revelations of torture committed as routine practice ultimately lead to the moratorium on the death penalty in Illinois. A number of individuals successfully sued the responsible police in civil rights cases in federal court, others have had criminal convictions reversed due to findings of coerced confessions, and others received pardons from then-Governor George Ryan. The responsible district commander (Jon Burge) was ultimately fired, but no one has ever been charged with a crime and no higher level officials have been held responsible.

### **Film showing:**

Peter Kuttner’s “The End of the Nightstick” Students can see this 44 minute documentary about the Area 2 torture cases which will be shown at several times during the week in the office of the Human Rights Program in Pick Hall.

### **Readings:**

#### **I. Argentina:**

##### **A. Narrative:**

Juan E. Mendez, “Torture in Latin America,” in *Torture*, edited by Kenneth Roth and Minky Worden, Human Rights Watch, 2005, pp. 56-68 (on Chalk site)

Hector Timmerman, “Torture: A Family Affair,” in Roth, ed., pp. 71-78 (on Chalk site)

##### **B. Advocacy:**

Mothers of the Plaza de Mayo – during the 1970s and 1980s a group of mothers of disappeared young people; the Madres de la Plaza de Mayo, were a brave and an important voice against repression. For an overview of their activities, see the summary by the Dutch International Institute for Social History at:

<http://www.iisg.nl/collections/madres.html> Note that this website also includes links to a history of the Madres and to the websites of the two current factions of the Madres (in Spanish: [www.madres.org/index.htm](http://www.madres.org/index.htm) and [www.madres-lineafundadora.org/](http://www.madres-lineafundadora.org/)).

Kathryn Sikkink, “Human Rights, principled issue-networks, and sovereignty in Latin America,” in *International Organization*, summer 1993 – for class, please read the section on Argentina, pp. 423-428 and the Conclusion, pp. 435-441 (on Chalk)

### **C. Official findings:**

Argentine National Commission on the Disappeared, *Nunca Mas: Report of the Argentine National Commission on the Disappeared*, English language edition, Farrar Straus Giroux, 1986 - Introduction by Ron Dworkin (17 pages), Prologue to the report by Commission Chair Ernesto Sabato, (5 pages) (on Chalk)

## **II. Chicago:**

### **A. Narrative:**

John Conroy, *Unspeakable Acts, Ordinary People*, University of California Press, 2000, Chapter 3 :“Chicago: Getting Confessions,” Chapter 7, “Chicago: The Pain Stays in Your Head,” Chapter 11, “Chicago: Informants;” and Chapter 15, “Chicago: The Public is not Aroused.”

John Conroy, “Tools of Torture,” Chicago Reader, February 4, 2005 (posted on Chalk)

### **B. Advocacy:**

#### **1) Websites of three local organizations which have worked on the cases:**

- a) Citizens Alert, a non-profit dedicated to addressing police abuse; the website has not been updated since 2004, although the organization is still active. See: <http://www.citizensalert.org/>
- b) Center for Wrongful Convictions, Northwestern University Law School; students worked to publicize the issue of innocent men on Illinois’ Death Row -See, generally: [www.law.northwestern.edu/depts/clinic/wrongful](http://www.law.northwestern.edu/depts/clinic/wrongful), and for a summary of the Area 2 torture cases: <http://www.law.northwestern.edu/depts/clinic/wrongful/documents/PoliceTorture.htm>
- c) Peoples Law Office: a law firm of civil rights and criminal defense lawyers whose work on the Chicago cases brought the torture practices to light: <http://www.peopleslawoffice.com/> (follow the links in the left-hand margin to the Aaron Patterson case and the Ford Heights Four)

#### **2) Article summarizing the legal advocacy on the police torture cases:**

Flint Taylor, “The Case of the Ford Heights Four,” *Police Misconduct and Civil Rights Law Report*, August-September, 1999, at <http://www.peopleslawoffice.com/Ford%20Heights%204.pdf>

### **C. Official findings**

Human Rights Watch – this 1997 report contains a compilation of some of the official findings by Illinois and federal courts in civil rights cases and criminal appeals, as well as the Chicago Police Office of Professional Standards decision on the dismissal of Jon Burge, former Commander of Area 2 <http://www.hrw.org/reports98/police/uspo53.htm>

InterAmerican Commission for Human Rights – findings the Chicago police torture cases – petition (on Chalk)

**Optional reading on human rights advocacy, in general:**

Douglas Johnson, “The Need for New Tactics,” in *The New Tactics Workbook*, 2004, [www.newtactics.org](http://www.newtactics.org) ; this article is in .pdf on the Chalk site

**Week 6 (October 29 & 31) Economic, Social and Cultural Rights**

In the next two weeks (6 & 7), we will examine two topics from among the so-called “second tier” rights. Until the 1990s, a sharp distinction was made with respect to a hierarchy of human rights, with political and civil rights regarded as having priority over economic, social, and cultural rights. While the obligations of state with respect to the promotion of ESC rights are framed in less mandatory terms than those with respect to civil and political rights, in the last two decades, more and more philosophers, experts, and advocates have urged equality of importance between these two spheres of rights. In the first week we will discuss the right to development, and in the second, the right to health and healthcare.

**The right to development:** Is economic development a means to achieve human rights or is economic development a right in and of itself? What is the theoretical understanding poverty as a “human rights” issue, instead of or in addition to a moral lens? Does the state have a political responsibility to the poor? What *should* be the role of international institutions and non-state actors?

Readings include global justice theorists Martha Nussbaum, Thomas Pogge and Tom Campbell and human rights theorists Philip Alston, Rhoda Howard and Robert Siegel, as well as Amartya Sen.

**Readings (to be edited)**

Howard, Rhoda (1983), “The Full-Belly Thesis: Should Economic Rights Take Priority Over Civil and Political Rights? Evidence from Sub-Saharan Africa” *Human Rights Quarterly* 5:4, pp. 467-490.

Siegel, Robert (1985), “Socioeconomic Human Rights: Past and Future” *Human Rights Quarterly* 7:3, pp. 255-267.

Pogge, Thomas, (forthcoming), Introduction in *Freedom from Poverty as a Human Right: Who Owes What to the Very Poor?*, edited by Thomas Pogge, unpublished manuscript, Oxford: Oxford University, pp. 1-13.

Campbell, Tom (forthcoming) "Poverty as a violation of human rights: inhumanity or injustice"? in *Freedom from Poverty as a Human Right: Who Owes What to the Very Poor?*, edited by Thomas Pogge, unpublished manuscript, Oxford: Oxford University, pp. 1-40.

**Background:**

Sen, Amartya (2000), *Development as Freedom*, Anchor Press. (Especially Ch., 1, 4, 10)  
Shue, Henry (1988), "Mediating Duties" *Ethics*, 98:4, pp. 687-704.  
Shue, Henry (1980), *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, Princeton University Press: Princeton, New Jersey, Chapter 1

**Legal Documents:**

UN Declaration on Human Rights, preamble and article 22  
International Covenant on Economic, Social and Cultural Rights

**Week 7 (November 5 & 7): Economic, social, and cultural rights: Is there a human right to health care**

**Guest Lecturer: Dr. John Schumann, University of Chicago Medical School**

**Is there a Human Right to Health Care?**

How do contemporary human rights concepts interface with health care (or its absence) and with the medical profession(s). We'll explore organized medicine and the "health care system" in the United States and in Chicago. Students should be familiar with the concept of Health Care Disparities, which imply that even controlling for access, minority patients have worse health indicator outcomes.

**Required Reading:**

Abraham, *Mama Might be Better Off Dead*, U of Chicago Press, 1993.

Institute of Medicine, *Unequal Treatment*, 2003.

[http://newton.nap.edu/execsumm\\_pdf/10260.pdf](http://newton.nap.edu/execsumm_pdf/10260.pdf) (skim pdf pages 2-24)

Academic Medicine. 81(9):788-792, September 2006.

<http://www.academicmedicine.org/pt/re/acmed/abstract.00001888-200609000-00004.htm>

Health Affairs, Web exclusive, 7 October 2004.

<http://content.healthaffairs.org/cgi/reprint/hlthaff.var.33v1>

**Background Reading:**

Steinberg, "Imposing Personal Responsibility for Health," NEJM, August 24, 2006 753-6

<http://content.nejm.org/cgi/reprint/355/8/753.pdf>

Gladwell, "Million Dollar Murray," *New Yorker*, February 13, 2006.

<http://gladwell.com/pdf/murray.pdf>

## **Week 8: (November 12 & 14) Women's rights, cultural relativism, and asylum adjudication: women's rights are human rights**

Weeks 8, 9 and 10 will be dedicated to a case study which illustrates a range of inter-related questions regarding the rights of women as human rights, as well as principles of universalism versus cultural relativism. We will examine the following questions:

- 1) How are women's rights regarded in the international human rights world?
- 2) How is the control over women's bodies a human rights issue?
- 3) How do traditional cultures clash with modern conceptions of individual rights? How has that debate developed in the last 50 years?
- 4) Why is it that women's rights are the locus of much of the discussion of universalism versus cultural relativism?
- 5) How are rights claims of persons fleeing persecution recognized in other states through the mechanism of political asylum adjudications? What does that mechanism teach us about questions of universalism of human rights?
- 6) Are the rights recognized for purposes of asylum identical to those articulated in the international human rights documents?
- 6) How do asylum adjudications become "politicized" under the influence of the receiving state's geopolitical interests?

### **Case study:**

Fauziya Kassindja fled Togo after the death of her father who had protected her from being subjected to the traditional practices of female genital mutilation which were widely accepted in their community. She feared that her father's adult relatives would force her to submit to these practices. With the help of her older sister and her mother, she was illegally smuggled into Germany, where she bought a fake passport and a plane ticket to the U.S. After she landed in the United States without a visa, she told the immigration officials that she wanted to apply for political asylum. Under U.S. policy, she was detained while her application was pending and, with the help of lawyers and the U.S. feminist community, was ultimately successful in her request for political asylum.

**Read about the Kassindja case at the website of:** Center for Gender and Refugee Studies, University of California, Hastings College of Law (San Francisco)  
[www.uchastings.edu/cgrs](http://www.uchastings.edu/cgrs)

### **Required readings:**

Bunch, Charlotte, "Women's Rights as Human Rights: Toward a Re-vision of Human Rights," in *Human Rights Quarterly*, Vol. 12, no. 4 (November 1990)

<http://links.jstor.org/sici?sici=0275-0392%28199011%2912%3A4%3C486%3AWRAHRT%3E2.0.CO%3B2-4>

Radhika Coomaraswamy, "Different but Free: Cultural Relativism and Women's Rights as Human Rights" (on Chalk)

Mary Ann Glendon, "Universality Under Siege," chapter 12, *A World Made New*, pp.221 – 235 (on Chalk)

Donna Sullivan, "Women's Human Rights and the 1993 World Conference on Human Rights," *American Journal of International Law*, Vol. 88, No. 1, January 1994  
<http://www.jstor.org/view/00029300/di981851/98p0543b/0?config=jstor&frame=noframe&userID=80873b7c@uchicago.edu/018dd55340005012747ef&dpi=3>

### **Legal instruments:**

Convention on the Elimination of all forms of Discrimination Against Women (in your Red Book and at <http://www.un.org/womenwatch/daw/cedaw/>

Human Rights Watch, Women's Rights Project: <http://www.hrw.org/women/> and their campaign for the U.S. ratification of CEDAW  
<http://www.hrw.org/campaigns/cedaw/>

### **Wednesday discussion group exercise: Ford Foundation focus group**

You will meet for 30 minutes in small groups to develop a response to the following exercise. Appoint a spokesperson to deliver your group's conclusions to the class. We will discuss each group's conclusions.

The Ford Foundation is going to launch a five-year multi-million dollar initiative to fund projects to promote the human rights of women and girls in the U.S. and two other countries. You have been invited to be part of a focus group of young American university students who will assist the Ford Foundation in developing priorities for this initiative. Ford is also holding sessions over the next six months in eight different countries and including a diverse range of people, both male and female.

Your group has been asked to develop a list of the top four human rights issues confronting each of the two following groups: 1) Young women (defined as age 15 – 25) in the U.S., and 2) Women of all ages in a country to be determined by your group. Please select a country in which someone in your group has experience living, working, traveling, or through family ties.

### **Week 9 (November 19 only) Clash of cultures: women's human rights and traditional practices**

**Film showing:** We will begin class with a 20 minute tape of a *Nightline* newscast featuring the Kassinga case. Please be aware that while there are no direct shots of the practice of female circumcision in the film, there is a still photo of a bloody knife which caused a student to faint.

### **Required reading:**

Corinne Kratz, "Circumcision Debates and Asylum Cases: Intersecting Arenas, Contested Values, and Tangled Webs," in *Engaging Cultural Differences*, Richard Shweder, Martha Minow, and Hazel Rose Markus, editors, Russell Sage Foundation, 2002 (on Chalk)

Richard Shweder, "What About Female Genital Mutilation? and Why Understanding Culture Matters in the First Place," from Shweder, Minow, & Markus (on Chalk

updates on the Kassindja case: <http://cgrs.uchastings.edu/about/kasinga.php>

### **Week 10 (November 26 & 28) The right to apply for asylum**

Another aspect of the Kassindja case is the treatment accorded foreigners who arrive without documents at a border and request that they be granted asylum. What are the obligations of states with respect to such persons? Do asylum applicants have a right to not be detained? Must their claims be subjected to a full individualized hearing or may states decide to grant or deny asylum to groups of people based on factors such as nationality or gender?

**Readings:** Castles & Miller, *The Age of Migration*, Refugees in the post-World War 2 period, pp.102-109; refugees in Central Africa, pp. 12-13; Kurdish refugees, pp. 136-137; refugees in the Asia-Pacific region, pp.172-175; Australia and the "Tampa" incident, pp. 204-205

Gil Loescher, "The Origins of the International Refugee Regime", from *Beyond Charity: International Cooperation and the Global Refugee Crisis*, (on Chalk)

Aristide Zolberg, Astrid Suhkre, Sergio Aguayo, "Who is a Refugee?" from *Escape from Violence*, Oxford University Press, 1989, pp. 3 - 33 (on Chalk)

European Council on Refugees and Exiles, executive summary of "Position on Asylum Seeking And Refugee Women," December 1997

<http://www.ecre.org/positions/women.shtml#EXECUTIVE%20SUMMARY><http://www.ecre.org/positions/women.shtml#EXECUTIVE%20SUMMARY>

United Nations High Commission for Refugees, Guidelines on International Protection: Gender-related persecution, May 2003

Department of Justice, regulations on gender-based asylum claims  
[http://w3.uchastings.edu/cgrs/documents/legal/proposed\\_regs\\_12-00.pdf](http://w3.uchastings.edu/cgrs/documents/legal/proposed_regs_12-00.pdf)

### **Legal instruments:**

Convention Relating to the Status of Refugees, done July 28, 1951, 189 UNTS 137, (in the Red Book and [http://www.unhchr.ch/html/menu3/b/o\\_c\\_ref.htm](http://www.unhchr.ch/html/menu3/b/o_c_ref.htm))

Protocol Relating to the Status of Refugees, done January 31, 1967, 19UST 6223, (in the Red Book and at [http://www.unhchr.ch/html/menu3/b/o\\_p\\_ref.htm](http://www.unhchr.ch/html/menu3/b/o_p_ref.htm))

United Nations High Commission for Refugees, Guidelines on International Protection: Gender-related persecution, May 2002 and Department of Justice, regulations on gender-based asylum claims

[http://w3.uchastings.edu/cgrs/documents/legal/proposed\\_regs\\_12-00.pdf](http://w3.uchastings.edu/cgrs/documents/legal/proposed_regs_12-00.pdf)

**optional reading: U.S. law on asylum status** (all on Chalk - "course documents)

8 USC 1101 (a) (42) (also known as Immigration and Nationality Act Sec. 101(a)(42) 1157:

INA Sec. 207 - the "overseas refugee program"

8 USC 1158 (a/k/a INA Sec. 208) - Asylum