

Anthropology and Human Rights

Sally Engle Merry
Silver Professor
Department of Anthropology
Fall 2015
Tues 2-4:45

Anthropology Department First Floor Conference Room

Office: 603 in Anthropology Department, 25 Waverly Place

Office Hours, 10-12 Wednesday

ANTH GA 2600/LAW LW.11455.001

This course examines the contemporary elaboration and dissemination of human rights in the post-World War II period as law, discourse, and practice. This includes an analysis of its institutional grounding in the United Nations and non-governmental organizations and its changes over time. The course covers the historical opposition of the American Anthropological Association to human rights and its more recent statement of support. It examines the opposition between culture and rights along with current theoretical efforts to negotiate an intermediate space. Current anthropological work focuses on the way human rights concepts and institutions are mobilized in particular political struggles in various parts of the world and how concepts of culture and rights are deployed in the global production and localization of human rights ideas. Specific areas of focus include indigenous rights, women's rights, transitional justice, and human rights monitoring by NGOs and treaty committees, including technologies of knowledge production and the use of indicators and benchmarks. The course discusses approaches to transnational, deterritorialized, and multi-sited ethnography as well as the gaps between human rights law and implementation.

There will be a mid-semester paper of 10 pages and a final research paper of 25 pages. Students are expected to write a one-page reaction to the readings and one or two questions for further discussion for each class to be posted on NYU Classes by midnight the night before the class, with two classes excused. Students are expected to complete the readings and be prepared to discuss them. Two or three students will be responsible for raising questions in each class, with each student responsible for two classes. Grades are based on papers (30% mid-semester and 60% final) and class presentations and posts (10%).

Required Books:

Cowan, Jane K, Marie-Benedicte Dembour, and Richard A. Wilson (eds.). 2001. *Culture and Rights: Anthropological Perspectives*. Cambridge University Press.

Goodale, Mark and Sally Engle Merry (eds.) 2007. *The Practice of Human Rights: Tracking Human Rights between the Local and the Global*. Cambridge: Cambridge University Press.

Merry, Sally Engle. 2006. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Univ. of Chicago Press.

Harri Englund, 2006. *Prisoners of Freedom: Human Rights and the African Poor*. University of California Press.

Richard Price. 2011. *Rainforest Warriors: Human Rights on Trial*. University of Pennsylvania Press.

September 8: Introduction: Concepts of Human Rights and the Contemporary Human Rights System

Jack Donnelly, 2003. Chapters 1-3 (Part I). *Universal Human Rights in Theory and Practice, Second Edition*. On NYU Classes.

September 15: Human Rights and Culture: Anthropological Perspectives

Wilson, Richard A. 2007. "Tyrannosaurus lex: the anthropology of human rights and transnational law." Pp. 342-369 in Goodale and Merry, eds. *The Practice of Human Rights*.

Cowan, Jane K, Marie-Benedicte Dembour, and Richard A. Wilson (eds.). 2001. *Culture and Rights: Anthropological Perspectives*. Cambridge University Press.
Especially chapters 2-4, 7-8, 10.

September 22: Human Rights in Practice: A Case Study of a Trial

Price, Richard. 2011. *Rainforest Warriors: Human Rights on Trial*.

September 29: The Human Rights Treaties

The Human Rights Treaties. Search on Human Rights Treaty Bodies, www2.ohchr.org/english/bodies/treaty/index.htm

Read the *Universal Declaration of Human Rights*, *International Covenant of Civil and Political Rights* (ICCPR), *International Covenant on Economic, Social, and Cultural Rights* (ICESCR), and several of the other treaties. Each has general comments and reporting guidelines. There are country reports for each treaty. Read as much of these materials as you can to get a sense of what the treaties cover and what the reports are like. There is a description of the process in my 2006 book, below, chapters 2 and 3.

Merry, 2006. *Human Rights and Gender Violence*, chapters 2 and 3.

October 6: Critiques of Human Rights

Matua, Makau. 2001. "Savages, Victims, and Saviors: The Metaphor of Human Rights." *Harvard International Law Journal* 42 (1): 201-245.

Kennedy, David. 2002. "The international human rights movement: Part of the problem?" *Harvard Human Rights Journal* 15: 101-126.

Charlesworth, Hilary. 2002. "A Response to David Kennedy." *Harvard Human Rights Journal* 15: 127-131.

Hopgood, Stephen. 2013. *The Endtimes of Human Rights*, Chapter 1.

October 20: Human Rights in Local Contexts

Harri Englund, 2006. *Prisoners of Freedom: Human Rights and the African Poor*. University of California Press.

October 27: Universalism and Relativism: The Question of Cultural Difference

Donnelly, Jack. 2013. Chapters 6 and 7 in *Universal Human Rights in Theory and Practice*, third edition. On NYU Classes.

Samuel Huntington. 1993. "The Clash of Civilizations?" *Foreign Affairs*. 72 (3) : 22-49. There is a full book with this argument as well, *The Clash of Civilizations*.

An-Na'im, Abdullahi. 1992. "Toward a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Treatment or Punishment." Pp. 19- 44 in *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*. Edited by Abdullahi Ahmed An-Na'im. Phila: Univ. of Pennsylvania Press.

Merry, Sally Engle, Changing rights, changing culture. In Cowan, Jane K. Marie-Benedicte, Dembour, and Richard A. Wilson (eds.) *Culture and Rights: Anthropological Perspectives*. New York: Cambridge University Press, 2001, pp 31-55.

November 3: Anthropologists Debate Human Rights and Culture

American Anthropological Association. 1947. "Statement on Human Rights." *American Anthropologist* 49 (4): 539-43.

Steward, Julian. 1948. "Comments on the Statement on Human Rights." *American Anthropologist* 50: 351-2.

Barnett, H.G. 1948. "On Science and Human Rights." *American Anthropologist* 50: 352-5.

AAA statement on human rights on www.aaanet.org

Engle, Karen. 2001. "From Skepticism to Embrace: Human Rights and the American Anthropological Association." *Human Rights Quarterly* 23: 536-560.

Merry, Sally Engle. 2003. "Human Rights Law and the Demonization of Culture (And Anthropology Along the Way)" *Polar: Political and Legal Anthropology Review* 26:1: 55-77.

Riles, Annelise. 2006. "Anthropology, Human Rights, and Legal Knowledge: Culture in the Iron Cage." *American Anthropologist*. 108 (1): 52-65.

November 10: Human Rights in Practice

Mark Goodale and Sally Engle Merry, eds. 2007. *The Practice of Human Rights*. Cambridge Univ. Press.

Paper due November 12: Is there a way to reconcile a universal value system and respect for cultural difference? In light of the many case studies we have read, what do you think are the advantages and the drawbacks of asserting a universal legal system for local social movements? When and why is universality resisted?

Paper to be delivered to my mailbox in the Anthropology Department, first floor, by 5 PM (office closes at 5 PM).

November 17: No Class. American Anthropological Association Annual Meeting

November 24: Vernacularization of Human Rights

Peggy Levitt and Sally Engle Merry. 2009. "Vernacularization on the Ground: Local Uses of Global Women's Rights in Peru, China, India, and the United States." Special Issue of *Global Networks: A Journal of Transnational Affairs*. Vol. 9, issue 4. 441-46.

Merry, Sally Engle. 2006. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Univ. of Chicago Press. Chs 1, 4-7.

Recommended: the four case studies in the *Global Networks* special issue, 2009 (9:4).

Merry, Sally Engle, Peggy Levitt, Mihaela Serban Rosen, and Diana H. Yoon. 2010. "Law from Below: Women's Human Rights and Social Movements in New York City." *Law and Society Review* 44 (1):101- 128. .

December 1: Measuring Human Rights

Merry, Sally Engle. 2011. "Measuring the World: Indicators, Human Rights, and Global Governance" *Corporate Lives: New Perspectives on the Social Life of the Corporate Form*. Damani Partridge, Marina Welker, Rebecca Hardin, eds. Wenner-Gren Symposium Series. *Current Anthropology*, Vol. 52, Supplementary Issue 3: S83-S95.

Rosga, AnnJanette and Margaret L. Satterthwaite. 2009. "The Trust in Indicators: Measuring Human Rights." *Berkeley Journal of International Law* 27 (2): 253-315.

UN International Human Rights Instruments, OHCHR. 2008. "Report on Indicators for Promoting and Monitoring the Implementation of Human Rights." HRI/MC/2008/3, 6 June 2008. (google on the document number).

December 8: Transitional Justice and the International Criminal Court

Waldorf, Lars. 2006. "Mass Justice for Mass Atrocity: Rethinking Local Justice As Transitional Justice." *Temple Law Review* 79: 1 - 87.

Hagen, John and Ron Levi. 2005. "Crimes of War and the Force of Law." *Social Forces* 83 (4): 1499-1534.

Recommended: Kamari Clarke. 2009. *Fictions of Justice: The International Criminal Court and the Challenge of Legal Pluralism in Sub-Saharan Africa*. Cambridge Univ. Press.

December 15: Trafficking and Human Rights; Project presentations

Read overview, rankings, and some country narratives in *US State Department Trafficking in Persons Report, 2015*. www.state.gov/g/tip/rls/tprpt/2015/

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations. Convention against Transnational Organized Crime (UN Palermo Protocol). 2003. www.unodc.org

Kay Warren. 2007. "The 2000 UN Human Trafficking Protocol: rights, enforcement, vulnerabilities." Pp. 242-273 in Goodale and Merry, *The Practice of Human Rights*.

Final Papers due December 23, emailed to sally.merry@nyu.edu