INTRODUCTION

This course begins by exploring the historical origins and philosophical underpinnings of human rights, including religious and natural law theories, legal positivism, theories of cultural relativism, and feminist critiques. Through case studies drawn from many parts of the world, we will then analyze contemporary ethical dilemmas from the perspective of human rights and consider how different theoretical approaches can lead to different outcomes. The course takes an interdisciplinary and comparative approach and challenges students to identify and critique the relationship between law and ethics within different cultural traditions.

Throughout the course, we will also explore the relationship between human rights and conflict resolution, particularly the differences between between litigation and more “consensus-based” enforcement models. Violations of human rights sometimes generate litigation and we will study some famous court judgments. However, court-based enforcement is not the norm. At the domestic level, disputes concerning human rights are routinely resolved through processes of alternative dispute resolution (ADR) and we will study the advantages and disadvantages of such processes. At the international level, international and regional courts can sometimes provide remedies for violations of human rights (and, in very rare cases, the United Nations Security Council may adopt sanctions against abusive governments). But most international human rights bodies have no coercive enforcement powers over governments. Instead, they use the concept of “name and shame” to persuade governments to better comply with international norms. The process is essentially a dialogue, one that has revealed deep divisions among nations but has also fostered consensus on certain fundamental issues.

STUDENT LEARNING OBJECTIVES
This course has a Contemporary Ethical Issues (E) focus. Contemporary ethical issues are fully integrated into the course and will constitute at least 50 percent of the course content. The course will emphasize “rights-based” approaches but will also draw comparisons to other approaches to ethical decision-making. Through lectures, readings, class discussion, and assignments, students will learn to:

(i) Discuss the historical and theoretical underpinnings of human rights law and offer reasoned opinions regarding the validity of competing theories, including universalism, cultural relativism, and feminist perspectives.

(ii) Explain historical trends in the development of human rights theory and practice, including the creation of the UN human rights treaty system and the gradual embracement of what are sometimes referred to as “second” and “third” generation rights.

(iii) Recognize and analyze the ethical and moral consequences of contemporary conflicts over human rights and the choices that societies make regarding enforcement and dispute resolution processes. Identify the advantages and disadvantages of different processes of conflict resolution (including litigation, mediation, truth and reconciliation commissions).

(iv) Understand the concept of “rights-based” approaches to ethical decision-making and compare them to alternative approaches (including those based on the values of common good, social harmony, virtue, or the ethics of care).

(v) Deliberate responsibly about ethical issues and alleged violations of human rights, and reach ethically determined judgments in selected case studies.

ASSESSMENT

The final grade (which includes “plus and minus” grades) is determined as follows:

One third (33.3%) of the grade is determined by a one-week take-home mid-term examination (provisionally scheduled for March 15-22).

Two thirds (66.7%) of the grade is determined by a take-home final examination; the examination questions will be distributed in the final class on Wednesday, May 3 and answers will be due on Wednesday, May 10 at 2:00 p.m.

Excellent attendance and class participation can boost your final grade by one level (e.g. from a B+ to an A-). Enthusiasm and willingness to volunteer during the class
discussions will be rewarded. However, I also call on students to ensure that everyone has an equal opportunity to participate. I do not expect you to have the “right answer” all the time. Indeed, many of the questions posed in this class have no perfect answers. But I do expect you to demonstrate that you have competed the readings and thought carefully about the assigned discussion questions.

TEXTBOOK & ADDITIONAL READING MATERIALS

Michael Goodhart, ed., HUMAN RIGHTS: POLITICS AND PRACTICE (Oxford University Press, 3rd ed. 2016) is the required textbook. It is available in the UH Manoa bookstore or from on-line bookstores. (This is an edited collection of chapters by different authors.) I will supplement the textbook with distributed materials, including treaties and reports by international human rights bodies, excerpts from leading human rights cases, journal articles, and case studies of current human rights controversies.

ADDITIONAL RECOMMENDED BOOKS (for those with special interests):


Ronald Dworkin, TAKING RIGHTS SERIOUSLY (originally 1977 but reprinted many times; recent publications contain an appendix with a “response to critics”).


There are also many excellent journals on human rights. One of my favorites is the HUMAN RIGHTS QUARTERLY, which is available on line to UH Manoa students.
PROVISIONAL SCHEDULE

Note: the reading assignment should always be completed prior to class.

Week 1: Introduction to the theoretical foundations and sources of human rights

Monday, Jan. 8 - We will review this Syllabus and a short brochure on contemporary ethical issues. I will then give an introductory lecture on: (1) the relationship between “rights-based” and other approaches to resolving ethical dilemmas; (2) the relationship between human rights and democracy; and (3) the range of conflict resolutions processes that may be used to resolve conflicts relating to human rights, including negotiation; litigation; mediation; and “truth and reconciliation” processes.

Wednesday, Jan. 10 - Before class, read Introduction and Chapter 1 of the Textbook: Normative and Theoretical Foundations of Human Rights (pp 1-24) and materials on the US Bill of Rights (in the Week 1 Readings File on Laulima). Prepare to discuss Individual Study Questions 1, 3, 4, and 5 on p. 25 and Group Discussion Question 3 on p. 26. I will also distribute an in-class group exercise entitled “negotiating a Bill of Rights.”

Week 2: Sources of human rights, continued

Monday, Jan. 15 – No Class (Public Holiday: Martin Luther King Day)

If you have not previously studied the United Nations (UN), then you can use this time to read the material at: http://www.un.org/en/mainbodies/, which explains the structure of the UN and the powers and functions of the General Assembly and Security Council (see: http://www.un.org/en/ga/about/background.shtml and http://www.un.org/en/sc/about/). I also recommend that you view the short video entitled: The Story of Human Rights (available at: http://www.humanrights.com/what-are-human-rights/brief-history/cyrus-cylinder.html) and the text that starts on that website, entitled “A Brief History of Human Rights.”

Wednesday, Jan. 17 – Before class, read Chapter 3: Human Rights in International Relations (pp 44-58) and Chapter 4: Human Rights and International Law (pp 60-75).

During class, you should be prepared to explain the difference between “realism” and “liberalism” in the field of international relations. You should also be prepared to discuss Individual Study Questions 1, 3, 5 and Group Discussion Questions 1 and 2 on p. 75.
I also recommend that you review the material on UN human rights bodies, available at: http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx. This will help you to distinguish between “Charter-based bodies” and “Treaty-based bodies” (you can to click on the links provided at this website in order to read about each one of the ten treaty-based bodies). An important Charter-based body is the Human Rights Council; see: http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx). Before class you may wish to watch the on-line tutorial on Universal Periodic Review (UPR) at: http://www.upr-info.org/en/tutorials. This is one of the processes through which the UN Human Rights Council attempts to monitor human rights in member states.

Week 3: Sources continued & introduction to enforcement models

Monday, Jan. 22 - Before class, read the Universal Declaration of Human Rights (UDHR); the International Covenant on Civil and Political Rights (ICCPR); and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) (in the Week 3 Readings File on Laulima). In-class I will ask you to compare and contrast the UDHR, the ICCPR, the ICESCR, and the “Bill of Rights” in the US Constitution (which you read for Week 1). What do these documents have in common? What distinguishes them?

We will also discuss the position of the United States with respect to the ICCPR and the ICESCR. The USA is a full state party to the ICCPR (which means that the executive branch signed the treaty and that at least 2/3 of the US Senate voted in favor of ratifying the treaty). However, the USA is only a “signatory” (not a full state party) to the ICESCR (because the US Senate has never voted to ratify it). Compare the rights that are protected in the ICCPR to the ICESCR: can you explain why it might be difficult to obtain the required 2/3 vote in the US Senate in support of ratification of the ICESCR?

Wednesday, Jan. 24 – Before class, read Chapter 5: Human Rights in Comparative Politics (pp 77-91) and Chapter 9: Global Civil Society and Human Rights (pp. 147-161). Prepare to discuss Individual Study Questions 1-4, 7 and 8; Group Discussion Questions 3-5 on p. 91; and Group Discussion Questions 3 and 6 on p. 161.

Week 4: Sovereignty and human rights: debates on the right to self-determination, civil war, and humanitarian intervention (including the evolving doctrine of “responsibility to protect” in customary international law)


Wednesday, Jan. 31 - Before class, read Textbook Chapter 7: Contemporary Critiques of Human Rights (pp. 110-125) and Chapter 21: Humanitarian Intervention (pp. 370-87).
Prepare to discuss Individual Study Questions 1-4, 7 and 8; Group Discussion Questions 1-5 and Group Discussion Questions 1-5 on p. 387.

**Week 5: Prevention of Genocide and Transitional Justice; Forced Migration and the Treatment of Refugees, Migrants, and Displaced Persons**

**Monday, Feb. 5** - Before class, read Textbook, Chapter 20: Genocide and Human Rights (pp 351-368) and Chapter 22: Transitional Justice (pp 389-402). Prepare to discuss Individual Study Questions 1-3 and Group Discussion Questions 1-2 on p. 368 and Individual Study Questions 1-5 on p. 402.


**Week 6: Regional human rights systems and case study of conflicts between laws prohibiting expressions of racial hatred and the right to freedom of expression**

**Monday, Feb. 12** - Before class, read the European Convention on Human Rights and Fundamental Freedoms and the Convention on the Elimination of All Forms of Racial Discrimination (CERD) (both in the Week 6 Reading File on Laulima). You may also wish to review page 73 (on regional systems) in Chapter 4 of the textbook.


**Wednesday, Feb. 14** - Before class, read and prepare to discuss materials on Jersild v. Denmark (European Court of Human Rights), in the Week 6 Reading File.

**Week 7: Feminist and activist approaches; the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

**Monday, Feb. 19** – No Class (Public Holiday: Presidents’ Day)

**Wednesday, Feb. 21** – Before class, read Textbook, Chapter 2: Feminist and Activist Approaches (pp. 28-41) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (available on Laulima in the Week 7 Readings File). Prepare to discuss Individual Study Questions 1, 2, and 3 on p. 41 and Group Discussion Questions 2 and 5 on p. 41.
Week 8: Resolving conflicts between gender equality and traditional practices

*Monday, Feb. 26* – Before class, read Chapter 6: Sociological and Anthropological Approaches (pp 93-107) and additional materials on violence against women (in the Week 8 Readings File on Laulima).

*Wednesday, Feb. 28* – Before class, read remaining materials in the Week 8 Reading File on Laulima and prepare for an in-class exercise on CEDAW and female genital cutting. Note: the materials on Laulima include links to videos on the topic of female genital cutting. I am not planning to show these videos in class as some students may find them quite disturbing. However, I recommend that you try to watch at least one of the videos before class. As you so so, consider the different ways in which a government might try to resolve conflicts between those who believe that female genital cutting is a form of torture and mutilation and those who believe that it is a valued traditional practice. For example, should practitioners and parents be prosecuted when a minor child is cut or rely upon less coercive public education methods? Alternatively, should governments encourage hospitals and doctors to perform genital cutting (under anesthesia) in order to reduce the trauma and the risks of female genital cutting?

Week 9: Human Rights and Religion; Sexual Orientation & Gender Identity

*Monday, Mar. 5* – Before class, read Chapter 10: Human Rights and Religion (pp 164-179) and additional materials in the Week 9 Reading File on Laulima. Prepare to discuss the Individual Study and Group Discussion Questions on p. 179.

*Wednesday, Mar. 7* – Before class, read Textbook, Chapter 11: Sexual Orientation, Gender Identity, and Human Rights (pp 182-196) and review the materials on the Yogyakarta principles in the Week 9 Readings File on Laulima. Prepare to discuss Individual Study Questions 1-3 on p. 195 and Group Discussion Questions 1 and 4 on p. 196.


Week 10: Prevention of Torture and the Rights of Persons in Detention

*Monday, Mar. 12* - Before class, read Textbook, Chapter 15: Torture (pp 255-271); and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or
Punishment (CAT), available in the Week 10 Readings File on Laulima. An outline on the legal prohibitions on torture and a hypothetical problem will also be distributed.

**Wednesday, Mar. 15** – Before class, read the decision of the Committee Against Torture in Agiza v. Sweden. In class we will break into groups to work through the hypothetical problem in the Week 10 Readings File (a negotiation and advocacy exercise on the possible return of a person who is resisting deportation and alleges that she will be tortured if returned to her home country).

The mid-term take-home examination (assessing Weeks 1-9) will be distributed at the end of class. You will have an opportunity to read the mid-term questions in class and ask questions regarding the instructions. However, you may not discuss the mid-term examination questions with anyone after class is dismissed. *Answers are due on or before 5:00 p.m. on Wednesday, Mar. 21 (to be emailed to: carolep@hawaii.edu).*

**Week 11: Conflict resolution processes in the context of sexual harassment**

**Monday, Mar. 19**  Before class, read materials in the Week 11 Reading File on Laulima (on the use of litigation, mediation, and other ADR processes to resolve complaints of sexual harassment).

**Wednesday, Mar. 21**  No class today. Complete your answers to the midterm, which are due TODAY on or before 2:00 p.m. Please type and save your answers as a word document or a pdf file (and include your name in the name of the document, which helps me to locate your paper on my computer). Then email your paper as an attachment to: carolep@hawaii.edu. Make sure that you “cc” yourself on the email so that you have a record of transmittal. Please also ensure that your name is on your paper (not just in the email). **Note:** The grade on a late examination paper will be lowered by one-third (e.g. B+ to a B) for every two hours of lateness unless there is a documented significant health condition or other genuine emergency that was beyond the student’s control.

**SPRING BREAK (no class on March 26 or 28)**

**Week 12: Development, globalization, and economic, social and cultural rights**

**Monday, Apr. 2**  – Before class, read Textbook, chapter 12: Human Rights and Politics in Development (pp 198-213) and review the International Covenant on Economic, Social & Cultural Rights (ICESCR). I also recommend that you read the Optional Protocol to the ICESCR, which is in the Week 12 Readings File on Laulima. Prepare to discuss Individual Study Questions and Group Discussion Questions on p. 213.

Week 13: Indigenous Rights & Environmental Issues

Monday, Apr. 9 - Before class, read Textbook, Chapter 19: Indigenous Peoples’ Human Rights (pp 333-349). Prepare to discuss Individual Study and Group Discussion Questions on p. 349. There is additional (recommended) reading on the Awas Tingni case in the Week 13 Readings File (an important judgement arising from the Inter-American regional human rights system that interpreted the right to property as a group right in the context of an indigenous community).

Wednesday, Apr. 11 - Before class, read Textbook, Chapter 23: The Environment (pp 405-419). Prepare to discuss Individual Study and Group Discussion Questions on p. 419.

Week 14: Children’s Rights and the Rights of Persons with Disabilities


Wednesday, Apr. 18 – Before class, read Convention on the Rights of Persons with Disabilities (CRPD) and article on the implications of CRPD (readings and discussion questions will be in the Week 14 Readings File on Laulima).

Week 15: In-Class Group Exercises on Growth Attenuation; and Trafficking of Persons

Monday, Apr. 23 - Before class, read materials on growth attenuation of children with severe disabilities (in the Week 15 Readings File on Laulima). You will be assigned to a group for the in-class exercise (on a conflict that arises between members of a disability rights organization and parents of a child with profound disabilities).

Wednesday, Apr. 25 - Before class, read Textbook, Chapter 16: Human Trafficking (pp 273-288); and UN Trafficking Protocol (in Week 15 Readings File). Prepare to discuss Individual Study and Group Discussion Questions on p. 288.

Week 16: Reserved for Catch-up and Review for Final Examination

Monday, Apr. 30 - Review for final examination. Please bring questions to class.

Wednesday, May 2 - Continued review. The Final Take-Home examination questions will be distributed near the end of class. You will have an opportunity to read the exam in class and ask any questions concerning the instructions or terminology. You may not discuss the Final Examination questions with anyone after class is dismissed.

ANSWERS TO FINAL TAKE-HOME EXAMINATION are due by Wednesday, May 9, at 2:00 p.m. Please type and save your answers as a word document or a pdf file (and include your name in the name of the document, which helps me to locate your paper on my computer). Then email your paper as an attachment to: carolep@hawaii.edu. Make sure that you “cc” yourself on the email so that you have a record of transmittal. Please also ensure that your name is on your actual paper (not just in the email). Note: The grade on a late examination paper will be lowered by one-third (e.g. B+ to a B) for every two hours of lateness unless there is a documented serious health condition or other genuine emergency that was beyond the student’s control.

ADDITIONAL UH POLICIES & SERVICES

Content warning: This course includes discussion of difficult issues, including genocide, torture, discrimination, and violent conflicts. Some of the materials covered may be upsetting or remind you of upsetting experiences. If you would like to talk to someone in confidence, please know that there are University resources available, such as the Counseling and Student Development Center (telephone: 808.956.7927).

Students with disabilities: KOKUA provides services to UH Mānoa students who voluntarily disclose their disability status. A student’s disability status is considered confidential information and is only disclosed to faculty with the student’s permission. For more information, you may telephone (808) 956-7612 or email: kokua@hawaii.edu. The KOKUA website address is: http://www.hawaii.edu/kokua/.

Respectful learning environment: UH Mānoa recognizes the inherent dignity of all individuals and promotes respect for all people. Discrimination, sexual harassment, and other forms of harassment are not tolerated. If you have been the victim of discrimination, sexual harassment, or sexual misconduct, I encourage you to report this matter promptly. As a faculty member, I have an obligation to promote a safe and healthy educational environment. Should I learn of any sexual misconduct I must report the matter to the Title IX Coordinator, who oversees the University’s centralized review, investigation, and resolution process for reports of sexual misconduct, and also coordinates the University’s compliance with Title IX. If you want direct services offered by confidential resources within the University, you are encouraged to contact the
following resources:

<table>
<thead>
<tr>
<th>University Health Services Mānoa</th>
<th>808.956.8965</th>
<th>1710 East-West Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>Counseling &amp; Student Development Center</td>
<td>808.956.7927</td>
<td>2600 Campus Road</td>
</tr>
<tr>
<td>QLCSS 312</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office of Gender Equity</td>
<td>808.956.9977</td>
<td>2600 Campus Road QLCSS 210</td>
</tr>
</tbody>
</table>

These are only a few of the many resources available. For a more comprehensive list, please see the following link: http://manoa.hawaii.edu/genderequity/resources/

Please email carolep@hawaii.edu if you have questions regarding the course or the assessment.