

STANFORD UNIVERSITY – OVERSEAS PROGRAM – FLORENCE

OSP-FLORENCE 039:

ENVISIONING RIGHTS: EUROPE AND AMERICA

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Winter 2008

COURSE DESCRIPTION

Human rights play a distinctive role as a “moral touchstone” in international life today. Human rights violations are often perceived as threats to peace, and aspirations of people to be treated with dignity are commonly framed in the capacious language of human rights. Indeed, respect for human rights is now seen as a prerequisite for harmonious relations between peoples and states, good governance, and the well-being of individuals and communities. Yet human rights violations remain widespread. And the sheer scale of the human rights problem makes the challenge to build effective human rights protections especially daunting. Today, no single powerful government stands out as the champion of human rights.

Part of the reason that both Europe and the United States are punching well below their weight in the area of human rights lies in their own differing visions. Whether conceived of as a system of transnational rules for regulating state behavior, a standard for the reform of domestic institutions, or a collection of widespread customary international norms, different concepts of rights underlie contemporary expectations about life, personal security, health, education, work, fair treatment, and systems of government. Europe and the United States, having worked together to lay some of the foundations for the protection of human rights after the Second World War, show a marked divergence in their understandings of civil, political, economic and social rights, the types of institutions they construct for safeguarding these rights, and their policy preferences for how such rights should be “exported” beyond their own borders.

This course examines some of the similarities and differences between European and American visions of rights. We will examine the construction of a human rights regime, both internationally and regionally, transitional justice and collective memory, views of reparations and cultural property from Italy to Iraq, attitudes towards national minorities/immigration, freedom of speech/press and religious expression, and perspectives on economic and social rights and human dignity. We will also look at policy similarities and differences on how human rights should be expanded to other countries, on notions of universal jurisdiction versus national sovereignty, and finally, on the conduct of the war on terror.

COURSE REQUIREMENTS

The course will meet on Monday and Wednesday from 2:00 to 3:30pm. Students will be responsible for three short papers (maximum 4 pages each), a debate, and a policy memorandum (5 pages), and very active seminar participation, based upon your knowledge and understanding of the readings. Grades will depend upon the short papers (30%), the debate (15%), and the policy memorandum (25%), and class participation (30%).

WEEK 1 – WHY HUMAN RIGHTS MATTER: AN INTRODUCTION

January 9

Movie: “The Garden of the Finzi-Continis”

Required Readings:

A Human Rights Timeline.

Power, Samantha, *A Problem from Hell: America and the Age of Genocide*, (New York: Basic Books, 2002), pp. 1-45.

Naimark, Norman, Chapter 2 “The Nazi Attack on the Jews”, *Fires of Hatred: Ethnic Cleansing in Twentieth-Century Europe*, (Cambridge, MA: Harvard University Press, 2001), pp. 57-84.

Beigbeder, Yves, Chapter 2 “The Nuremberg Precedent”, *Judging War Criminals*, (New York: St. Martin’s Press, Inc., 1999), pp. 27-49.

Recommended Readings:

Borowski, Tadeusz, *This Way for the Gas, Ladies and Gentlemen*.

Levi, Primo, *Survival in Auschwitz, The Reawakening, and The Drowned and the Saved*.

Müller, Filip, *Eyewitness Auschwitz: Three Years in the Gas Chambers*.

Origo, Iris, *War in Val D'Orcia: An Italian War Diary, 1943-1944*.

Wiesel, Elie, *Night*.

WEEK 2 – THE CONSTRUCTION OF RIGHTS REGIMES

January 14: International

January 16: European

Movie: “Judgment at Nuremberg”

Required Readings:

Quickie Guide to Institutions, Agreements, and Courts

Cassel, Douglass, “The Globalization of Human Rights: Consciousness, Law and Reality”, *Northwestern University Journal of International Human Rights*, v.2 (Spring 2004), pp. 83-105.

Evans, Tony, Chapter 2 “Human Rights and Post-War Reconstruction”, *US Hegemony and the Project of Universal Human Rights*, (New York: St. Martin’s Press, Inc, 1996), pp. 48-71.

Glendon, Mary Ann, “The Rule of Law in the Universal Declaration of Human Rights”, *Northwestern University Journal of International Human Rights*, v.2 (Spring 2004), pp. 67-81.

United Nations, Universal Declaration of Human Rights, 1948.

Nolte, Georg, “European and US Constitutionalism: Comparing Essential Elements”, in Georg Nolte (ed.), *European and US Constitutionalism*, (New York: Cambridge University Press, 2005), pp. 3-20.

Matlárý, Janne Haaland, Chapter 3 “The Formation of the European Human Rights Regime”, *Intervention for Human Rights in Europe*, (New York: Palgrave, 2002), pp. 60-80.

Blackburn, Robert, “The Institutions and Processes of the Convention” in Robert Blackburn and Jörg Polakiewicz (eds.) *Fundamental Rights in Europe: The European Convention on Human Rights and its Member States, 1950-2000* (New York: Oxford University Press, 2001), pp. 3-29.

Council of Europe, “The Council of Europe and the Protection of Human Rights”, (Strasbourg: Council of Europe, 2002).

Cuadrat-Grzybowska, Katarzyna, “The Protection of Fundamental Rights in the European Union – selected aspects”, in Malte Brosig (ed.) *Human Rights in Europe: A Fragmented Regime?* (Oxford: Peter Lang, 2006), pp. 67-84.

Amnesty International, “Towards a Comprehensive European Human Rights System: The Speech that Amnesty International Would Have Made at the Inauguration of the EU Fundamental Rights Agency”.

Recommended Readings:

Taylor, Telford, *The Anatomy of the Nuremberg Trials*

Persico, Joseph, *Nuremberg*

Tutorow, Norman, *War Crimes, War Criminals, and War Crimes Trials*

Roling and Cassese, *The Tokyo Trial and Beyond*

Andreopoulos, George, *Genocide: The Conceptual and Historical Dimensions*

Bix, Herbert, *Hirohito and the Making of Modern Japan*.

Pati, Roza, “Rights and Their Limits: The Constitution for Europe in International and Comparative Legal Perspective”, *Berkeley Journal of International Law*, v.23 (2005), pp. 223-280.

Council of Europe, Short Guide to the European Convention on Human Rights

WEEK 3 – TRANSITIONAL JUSTICE AND COLLECTIVE MEMORY I

January 21

January 23

Movie: “Paisà”

Required Readings:

Judt, Tony, “From the House of the Dead: An Essay on Modern European Memory”, *Postwar: A History of Europe Since 1945* (New York: Penguin Books, 2005), pp. 803-831.

Huyse, Luc, “Justice after Transition: On the Choices Successor Elites Make in Dealing with the Past”, *Law and Social Inquiry*, v.20 n.1 (March 1995), pp. 51-78.

Osiel, Mark, *Mass Atrocity, Collective Memory, and the Law*, (New Brunswick, NJ: Transaction Publishers, 1997), pp.166-208.

Niven, Bill, *Facing the Nazi Past: United Germany and the Legacy of the Third Reich*, (New York: Routledge, 2002), pp. 1-40.

Read either the Italian or French case below:

Italy

Gordon, Robert S. C., “The Holocaust in Italian Collective Memory: *Il giorno della memoria*, 27 January 2001”, *Modern Italy*, v.11 n.2 (June 2006), pp. 167-188.

Santarelli, Lidia, “Muted Violence: Italian War Crimes in Occupied Greece”, *Journal of Modern Italian Studies*, v.9 n.3 (2004), pp. 280-299.

Vichy France

Sadat Wexler, Leila, “Reflections on the Trial of Vichy Collaborator Paul Touvier for Crimes against Humanity in France”, *Journal of Law and Social Inquiry*, v.20 (1995), pp. 191-221.

WEEK 4 – TRANSITIONAL JUSTICE AND COLLECTIVE MEMORY II

January 28

January 30

Movie: “The Lives of Others”

Required Readings:

Aguilar, Paloma, "Justice, Politics and Memory in the Spanish Transition", in Barahona de Brito, Alexandra, Carmen González-Enríquez, and Paloma Aguilar, Chapter 3, *The Politics of Memory: Transitional Justice in Democratizing Societies* (New York: Oxford University Press, 2001), pp. 92-118.

Davis, Madeleine, "Is Spain Recovering its Memory? Breaking the *Pacto del Olvido*", *Human Rights Quarterly*, v.27 (2005), pp. 858-880.

Borneman, John, *Settling Accounts: Violence, Justice, and Accountability in Post-Socialist Europe*, (Princeton, NJ: Princeton University Press, 1997), pp. 3-10, 20-25, 139-166.

Boyer, Dominic, "Ostalgie and the Politics of the Future in Eastern Germany", *Public Culture*, v.18 n.2 (2006), pp. 361-381.

Judah, Tim, "The Fog of Justice", *The New York Review of Books*, v.51n.1 (2004.01.15) <http://www.nybooks.com/articles/16875>

Stover, Eric, Hanny Megally, and Hania Mufti, "Bremer's 'Gordian Knot': Transitional Justice and the US Occupation of Iraq", *Human Rights Quarterly*, v.27 (2005), pp. 830-857.

Peterson, Jeremy, "Unpacking Show Trials: Situating the Trial of Saddam Hussein", *Harvard International Law Journal*, v. 48 n. 1 (Winter 2007), pp. 257-292.

Mayer, Jane, "Whatever It Takes: The politics of the man behind '24'", *The New Yorker*, (2007.02.19).

Recommended Readings:

The most valuable single source on transitional justice is Neil Kritz's three-volume compilation, *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, published by the United States Institute for Peace, which includes extracts of books and articles as well as original documents. This includes country studies of Europe after World War II, South Korea, Spain, Portugal, South America, Uganda, Russia, Central and Eastern Europe. This is an excellent place to begin country-based research. For an examination of the moral and political dilemmas involved in transitional truth and justice policies, see the 1997 issues of *The Hamline Law Review* and *Law and Contemporary Problems* and the 1995 *Journal of International Affairs*

Levi, Primo, *The Drowned and the Saved*

Richards, Michael, "From War Culture to Civil Society: Francoism, Social Change and Memories of the Spanish Civil war", *History & Memory*, v.14 (2002), pp. 93-120.

Von Henneberg, Krystyna, "Monuments, Public Space, and the Memory of Empire in Modern Italy", *History and Memory*, v.16 (2004), pp. 37-85.

McAdams, James, *Transitional Justice and the Rule of Law in New Democracies*.
Garton Ash, Timothy, *The File*
Rosenberg, Tina, *The Haunted Land*
Elster, Jon, "On Doing What One Can: An Argument against Restitution and Retribution as a Means of Overcoming the Communist Legacy," *East European Constitutional Review*, February 2000

WEEK 5 – REPARATIONS AND RESTITUTION

February 4

February 6

Required Readings:

Barkan, Elazar, "Introduction: Amending Historical Injustices in International Morality" *The Guilt of Nations: Restitution and Negotiating Historical Injustices*, (Baltimore, MD: Johns Hopkins University Press, 2000), pp. XV-XLI.

Roht-Arriaza, Naomi, "Reparations in the aftermath of repression and mass violence", in Eric Stover and Harvey M. Weinstein (eds.), *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, (New York: Cambridge University Press, 2004), pp. 121-139.

Nicholas, Lynn, "The Red-Hot Rake: Italy, 1943-1945" *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War*, (New York: Vintage Books, 1994), pp. 229-272.

Barkan, Elazar, "Plunder as Justice: Russian Victims and Glorious Museums" *The Guilt of Nations: Restitution and Negotiating Historical Injustices*, (Baltimore, MD: Johns Hopkins University Press, 2000), pp. 65-87.

Zgonjanin, Sanja, "The Prosecution of War Crimes for the Destruction of Libraries and Archives during Times of Armed Conflict", *Libraries and Culture*, v. 40 n. 2 (Spring 2005), pp. 128-144.

Waite, Robert G. "Returning Jewish Cultural Property: The Handling of Books Looted by the Nazis in the American Zone of Occupation, 1945 to 1952", *Libraries and Culture*, v. 37 n. 3 (Summer 2002), pp. 213-228.

Sandholtz, Wayne, "The Iraqi National Museum and International Law: A Duty to Protect", *Columbia Journal of Transnational Law*, v. 44 (2005-2006), pp. 185-240.

Recommended Readings:

Nicholas, Lynn H., *The Rape of Europa: the Fate of Europe's Treasures in the Third Reich and the Second World War*, (New York: Vintage Press, 1995).

Merryman, John Henry, "Cultural Property Internationalism:", *International Journal of Cultural Property*, v. 12 (2005), pp. 11-39.

Cunning, Andrea, "U.S. Policy on the Enforcement of Foreign Export Restrictions on Cultural Property & Destructive Aspects of Retention Schemes", *Houston Journal of International Law*, v.26 n.3 (204), pp. 449-506.

WEEK 6 –ECONOMIC RIGHTS, SOCIAL RIGHTS, AND HUMAN DIGNITY

February 11

February 23

Council of Europe, "The Social Charter at a Glance" (Strasbourg: Council of Europe, 2007).

Fabre, Cécile, "Social Rights in European Constitutions" in Gráinne de Búrca and Bruno de Witte (eds.) *Social Rights in Europe* (New York: Oxford University Press, 2005), pp. 15-28.

Wickham, James, "What's European about Europe? Potential and Weaknesses of the European Social Model", Briefing Paper from 'Infowork' Accompanying Measure, Employment Research Centre (12 March 2004), available at <http://www.tcd.ie/ERC/past%20symposia/infowork%20symposia%20docs/Potential%20and%20Weakness.pdf>

European Trade Union Confederation, "The European Social Model", ETUC Fact Sheet, 21 March 2007.

Schmitt, John and Dean Baker, "Old Europe Goes to Work: Rising Employment Rates in the European Union", CEPR Issue Brief, September 2006.

Downes, David and Kirstine Hansen, "Welfare and Punishment: the relationship between welfare spending and imprisonment", Crime and Society Foundation, Briefing 2 (November 2006).

Whitman, James "'Human Dignity' in Europe and the United States: the social foundations", in George Nolte (ed.) *European and US Constitutionalism* (New York: Cambridge University Press, 2005), pp. 108-124.

Daniels, Norman, "Justice, Health, and Health Care", Ruberto, Giovanna, "Ethics, Politics, and Priorities in the Italian Health-Care System", and Mann, Patricia S., "Health-Care Justice and Agency" in Rosamond Rhodes, Margaret P. Battling, and Anita

Silvers (eds.) *Medicine and Social Justice: Essays on the Distribution of Health Care*, (New York: Oxford University Press, 2002), pp. 6-20, 191-196, 121-131.

Davis, Martha F. and Roslyn Powell, "The International Convention on the Rights of the Child: A Catalyst for Innovative Childcare Policies", *Human Rights Quarterly*, v. 25 (2003), pp. 689-719.

Smolens, Susan, "Violence against Women: Consciousness and Law in Four Central European Emerging Democracies – Poland, Hungary, Slovakia and the Czech Republic", *Tulane European and Civil Law Forum*, v.15-16 (2000-2001), pp. 1-42.

Recommended Readings:

Peters, Julia and Andrea Wolper, ed., *Women's Rights as Human Rights*

Shah, Niaz, "Women's Human Rights in the Koran: An Interpretive Approach", *Human Rights Quarterly*, v.28 (2006), pp. 868-903.

Haynes, Dina Francesca, "Used, Abused, Arrested and Deported: Extending Immigration Benefits to Protect the Victims of Trafficking and to Secure the Prosecution of Traffickers," *Human Rights Quarterly*, v.26 (2004), pp. 221-272.

Carpenter, R. Charli, "Surfacing Children: Limitations of Genocidal Rape Discourse", *Human Rights Quarterly*, v.22 (2000), pp. 428-477.

WEEK 7 - NATIONAL MINORITIES, IMMIGRANTS AND ASYLUM SEEKERS

February 18

February 20

Required Readings:

Thiele, Carmen, "Minority Rights in Europe: an introduction into a fragmented regime", in Malte Brosig (ed.) *Human Rights in Europe: A Fragmented Regime?* (Oxford: Peter Lang, 2006), pp. 120-136.

Scales-Trent, "Racial Purity Laws in the United States and Nazi Germany: The Targeting Process", *Human Rights Quarterly*, v.23 (2001), pp. 259-307.

El Refaie, Elisabeth, "Competing Discourses about Austria's Nazi Past and Racist Bomb Attacks in the 1990s", *Journal of Contemporary European Studies*, v. 12 n. 2 (August 2004), pp. 215-230.

Angel-Ajani, Asale, "The Racial Economies of Criminalization, Immigration, and Policing in Italy", *Social Justice*, v.30 n.3 (2003), pp. 48-60.

Hauber, Laurie, "The Trafficking of Women for Prostitution: A Growing Problem within the European Union", *Boston College International and Comparative Law Review*, v.21, n.1 (1998), pp. 183-199.

Werbner, Pnina, "Veiled Interventions in Pure Space: Honour, Shame and Embodied Struggles among Muslims in Britain and France", *Theory, Culture & Society*, v.24 n.2 (2007), pp. 161-186.

"German Justice Failures: Paving the Way for a Muslim Parallel Society" *Der Spiegel*, 29 March 2007.

Kofman, Eleonore, "Contemporary European Migrations, Civic Stratification and Citizenship", paper presented at International Migrations: New Patterns, New Theories (2000 September 11-13).

WEEK 8 – FREEDOM OF EXPRESSION

February 25: Speech and Press

February 27: Religious Expression

Required Readings:

Janis, Mark W., Richard S. Kay and Anthony W. Bradley, "Freedom of Expression", *European Human Rights Law: Text and Materials*, (New York: Oxford University Press, 2000), pp. 138-141, 185-192

Kübler, Friedrich, "How Much Freedom for Racist Speech?: Transnational Aspects of a Conflict of Human Rights" *Hofstra Law Review*, v.27 n.2 (1998), pp. 335-376.

News articles regarding Turkey's Article 301 (Denigrating Turkishness) versus France's draft bill on denial of the Armenian genocide:

- Vaisman, Daria, "Turkey's Restriction, Europe's Problem," openDemocracy, <http://www.opendemocracy.net/debates/article.jsp?id=3&debateId=123&articleId=3952> (2006.09.29).
- Kessler, Ryder, "The Curious Case of Orhan Pamuk" Harvard Political Review Online, <http://hprsite.squarespace.com/curious-case-of-pamuk-032006/> (2006.03.05).
- Aydin, Senem, Sergio Carrera and Florian Geyer, "France's Draft Law on the Armenian Genocide: Some Legal and Political Implications at EU Level" CEPS Policy Brief, October 2006, pp. 1-4.

News articles regarding the Danish Cartoons:

- Spiegelman, Art, "Drawing Blood: Outrageous Cartoons and the Art of Outrage", *Harper's Magazine* (June 2006), pp. 43-52.
- Younan, Munib, "Your Freedom Ends Where the Freedom of the Other Begins", *New Routes*, (January 2006), p. 7.
- Dalgaard, Svenning, "The Right to Offend: The Causes and Consequences of the Danish Cartoon Affair", *RUSI Journal*, v.151, n.2 (April 2006), pp. 28-33.
- Rose, Flemming, "Why I Published Those Cartoons", *The Washington Post*, 2006.02.19, p. B01.

Post, Robert, "Religion and Freedom of Speech: Portraits of Muhammad", *Constellations*, v.14 n.1 (2007), pp.72-90. BE SURE TO READ THE FOOTNOTES!

Saint-Blancat, Chantal, and Ottavia Schmidt di Friedberg, "Why are Mosques a Problem? Local Politics and Fear of Islam in Northern Italy", *Journal of Ethnic and Migration Studies*, v. 31 n. 6 (November 2005), pp. 1083-1104.

Chelini-Pont, Blandine, "Religion in the Public Sphere: Challenges and Opportunities", *Brigham Young University Law Review*, 611 (2005), pp. 611-627.

Schick, Avi, "French Dressing: Lessons for America from the proposed French ban on religious garb," *Slate*, <http://www.slate.com/id/2093315/> (2003.12.30).

Turner, Maximilien, "The Price of a Scarf: The Economics of Strict Secularism", *University of Pennsylvania Journal of International Economic Law*, v.26 (2005), pp. 321-346.

News articles regarding the UK and the debate over the Niqab ('face veil'):

- Gomez, Edward M., "Britain's Straw Lifts Veil on Muslim-Veil Debate – and Ignites Firestorm", http://www.sfgate.com/cgi-bin/blogs/sfgate/detail?blogid=15&entry_id=9731 (2006.10.11).
- Shariatmadari, David, "Two Types of Veiling", *openDemocracy*, www.opendemocracy.net/faith-europe-islam/two_veils_3989.jsp (2006.10.12).
- Shehrbano, Afiya, "The Last Straw", *The International News*, <http://www.thenews.com.pk/print1.asp?id=27684> (accessed 2007.05.21).
- Harfoush Al-Hayat, Elias, "The 'Veil' of Jack Straw", *Dar al Hayat*, <http://english.daralhayat.com/opinion/OPED/10-2006/Article-20061010-3266e695-c0a8-10ed-013a-dc873e2b7acd/story.html> (2006.10.10).

News articles regarding the Netherlands and the debate over the Burqa:

- Browne, Anthony, "Dutch Unveil the Toughest Face in Europe with a Ban on the Burqa," *The Times (London)*, (2005.10.13).
- "Dismay at Possible Dutch Burqa Ban", *al Jazeera.net*, <http://english.aljazeera.net/English/archive/archive?ArchiveId=19183> (2006.03.16).

Recommended Readings:

Motilla, Augustín, "Religious Pluralism in Spain: Striking the Balance between Religious Freedom and Constitutional Rights," *Brigham Young University Law Review*, Summer 2004, pp. 575-606.

Brugger, Winifried, "Ban or Protection of Hate Speech? Some Observations Based on Germany and American Law," *Tulane European and Civil Law Forum*, v.17 (2002), pp. 1-21.

Haupt, Claudia E. "Regulating Hate Speech – Damned If You Do and Damned If You Don't: Lessons Learned from Comparing the German and U.S. Approaches", *Boston University International Law Journal*, v.23 (2005), pp. 299-335.

Kahn, Robert A. "Informal Censorship of Holocaust Revisionism in the United States and Germany," *George Mason University Civil Rights Law Journal*, v.9 (1998-1999), pp. 125-150.

Eko, Lyombe, "New Medium, Old Free Speech Regimes: The Historical and Ideological Foundations of French & American Regulation of Bias-Motivated Speech and Symbolic Expression on the Internet," *Loyola International and Comparative Law Review*, v.28 (2006), pp. 69-127.

Gunn, T. Jeremy, "Religious Freedom and *Laïcité*: A Comparison of the United States and France," *Brigham Young University Law Review*, Summer 2004, pp. 419-506.

McGoldrick, Dominick, *Human Rights and Religion: The Islamic Headscarf Debate in Europe*, (Oxford: Hart Publishing, 2006).

Amir Mozami, "Muslim Challenges to the Secular Consensus: A German Case Study", *Journal of Contemporary European Studies*, v.13 n.3 (December 2005), pp. 267-286.

Fourneret, Jessica, "France Banning Legal Pluralism by Passing a Law", *Hastings International and Comparative Law Review*, v.29 (2005-2006), pp. 233-249.

WEEK 9 – EXPORTING DEMOCRACY & HUMAN RIGHTS

March 3

March 5

Required Readings:

Thomas, Daniel C., "The Helsinki Accords and Political Change in Eastern Europe," in Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (eds.), *The Power of Human Rights: International Norms and Domestic Change*, (New York: Cambridge University Press, 1999), pp. 205-233.

Heinz, Wolfgang S., "EU External Relations and Human Rights", in Malte Brosig (ed.) *Human Rights in Europe: A Fragmented Regime?* (Oxford: Peter Lang, 2006), pp. 184-207.

Gatto, Alexandra, "The Integration of Social Rights Concerns in the External Relations of the European Union", in Gráinne de Búrca and Bruno de Witte (eds.) *Social Rights in Europe* (New York: Oxford University Press, 2005), pp. 339-365.

Dimitrova, Antoaneta and Geoffrey Pridham, "International Actors and Democracy Promotion in Central and Eastern Europe: the integration model and its limits", *Democratization*, v.11 n.5 (Decembre 2004), pp. 91-112.

Toggenburg, Gabriel, "The Debate on European Values and the Case of Cultural Diversity", European Diversity and Autonomy Paper EDAP 1/2004 (2004), available via <http://www.wurac.edu/edap>

Brosig, Malte, "Diffusing Fragmented Human Rights Standards: Minority Rights in Estonia", in Malte Brosig (ed.) *Human Rights in Europe: A Fragmented Regime?* (Oxford: Peter Lang, 2006), pp. 137-152.

Erdogan, Birsen “Turkey’s Compliance with EU Human Rights Norms” in Malte Brosig (ed.) *Human Rights in Europe: A Fragmented Regime?* (Oxford: Peter Lang, 2006), pp. 225-246.

Heller, Regina, “‘Exporting’ values: Tracing the EU’s human rights policy towards Russia”, in Malte Brosig (ed.) *Human Rights in Europe: A Fragmented Regime?* (Oxford: Peter Lang, 2006), pp. 208-224

Carothers, Thomas, “The Backlash Against Democracy Promotion”, *Foreign Affairs*, v.85 (2006), pp. 55-68.

WEEK 10 – UNIVERSAL JURISDICTION, THE WAR ON TERROR, AND THE LINGERING ALLURE OF IMPUNITY: EUROPE AND AMERICA AT ODDS

March 10

March 12

Required Readings:

Re-read the Universal Declaration of Human Rights from week 2.

Kamminga, Menno T., “Lessons Learned from the Exercise of Universal Jurisdiction in Respect of Gross Human Rights Offenses”, *Human Rights Quarterly*, 23 (2001), pp. 940-974.

Kissinger, Henry, “The Pitfalls of Universal Jurisdiction”, *Foreign Affairs*, 80 (2001), pp. 86-96.

Roth, Kenneth, “The Case for Universal Jurisdiction”, *Foreign Affairs*, 80 (2001), pp. 150-154.

Horton, Scott, “Through a Mirror, Darkly: Applying the Geneva Conventions to ‘A New Kind of Warfare’” in Karen J. Greenberg (ed.) *The Torture Debate in America*, (New York: Cambridge University Press, 2006), pp.136-150.

Forsythe, David P., “United States Policy toward Enemy Detainees in the ‘War on Terrorism’”, *Human Rights Quarterly*, 28 (2006), pp. 465-491.

Moran, Jon, “State Power in the War on Terror: A comparative analysis of the UK and USA”, *Crime, Law & Social Change*, 44 (2005), pp. 335-359.

Neuman, Gerald L., “Comment, Counter-terrorist Operations and the Rule of Law”, *European Journal of International Law*, v.15 n.5 (2004), pp. 1019-1029.

Fitzpatrick, Joan, "Speaking Law to Power: The War Against Terrorism and Human Rights", *European Journal of International Law*, v.14 n. 2 (2003), pp. 241-264.

Articles regarding attempts to prosecute US war crimes:

- Roth, Kenneth, "The International Criminal Court : 'New justice' vs. impunity", *International Herald Tribune* (2003 June 18), www.ihrt.com/articles/2003/06/18/edroth_ed3_.php
- Ratner, Michael and Peter Weiss, "Litigating Against Torture: The German Criminal Prosecution", in Karen J. Greenberg (ed.) *The Torture Debate in America*, (New York: Cambridge University Press, 2006), pp. 261-266.
- Lindsey, Daryl, "Dead-End for War Crimes Accusations: German Prosecutor Won't Pursue Rumsfeld Case", *Der Spiegel* (2005.02.10), www.spiegel.de/international/0,1518,341131,00.html
- "Rumsfeld Under Fire: War Crimes Suit Filed against Former Defense Secretary", *Der Spiegel*, (2006.11.14) www.spiegel.de/international/0,1518,448320,00.html
- "Prosecuting the US for War Crimes: Legal Fight against Rumsfeld Heads to Spain", *Der Spiegel*, (2007.04.30) www.spiegel.de/international/europe/0,1518,480215,00.html
- Barry, Colleen, "31 to Stand Trial in CIA Kidnapping Case" *Associated Press Online* (2007.02.16).
- Cobain, Ian, "Firm to be sued over 'torture flights'", *The Guardian* (2007.06.04).
<http://www.guardian.co.uk/print/0,,329968101-108958,00.html>

Recommended Readings:

The websites of United Nations, Council of Europe, Amnesty International, and Human Rights Watch have a plethora of reports on this week's issues.

Farber, I.E., Harry F. Harlow, Louis Jolyon West, "Brainwashing, Conditioning, and DDD (Debility, Dependency, and Dread)", *Sociometry*, v.20 n.4 (December 1957), pp. 271-285.

Donovan, Donald Francis and Anthea Roberts, "The Emerging Recognition of Universal Civil Jurisdiction", *American Journal of International Law*, v. 100 (2006), pp. 142-163.

Nowak, Manfred, "What Practices Constitute Torture?: US and UN Standards", *Human Rights Quarterly*, 28 (2006), pp. 809-841.

Strauss, Marcy, "The Lessons of Abu Ghraib", *Ohio State Law Journal*, 66 (2005), pp. 1269-1310.

Fischer-Lescano, Andreas, "Torture in Abu Ghraib: The Complaint against Donald Rumsfeld under the German Code of Crimes against International Law", *German Law Journal*, v.6 n.3 (2005), pp. 689-724.

Seamon, Richard Henry, "U.S. Torture as a Tort", *Rutgers Law Journal*, v.37 n.3 (2006), pp. 715-806.

Rouillard, Louis-Philippe F., "Misinterpreting the Prohibition of Torture under International Law: The Office of Legal Counsel Memorandum", *American University International Law Review*, 21 (2005), pp. 9-41.

Mayerfield, Jamie, "Who Shall be Judge?: The United States, the International Criminal Court, and the Global Enforcement of Human Rights", *Human Rights Quarterly*, v. 25 (2003), pp. 93-129.

WEEK 11 – FINALS WEEK

Policy Memorandum due