

## **Gender and Human Rights Problems in Asia and the Pacific MAIDS 2011-12.**

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### **Course Description:**

This course provides an opportunity to pursue studies in the application of theories of gender and human rights to contemporary ethical and social issues arising from “development”. Students will explore specific and controversial topics in areas such as poverty, social justice, individual and group rights, administration of justice, living standards, work, bio-ethics and genetics, environment, sexual and racial equality, child labour, mental health, illness, human and social security, energy, corruption, Asian values and cultural diversity. This course encourages students to link these specific and practical areas into gender and human rights questions relevant to the experiences of East and Southeast Asia.

### **Teaching Objectives.**

At the completion of the course the student will be able to:

- Describe the historical formation and philosophical rationale of Human Rights
- Detail the contents of the major Human Rights instruments
- Explain the gender dimensions and major contemporary debates on human rights, particularly in areas of discrimination, economy, health, and migration.
- Outline how of variety of institutions at the international, regional, and national level protect human rights through activities such as advocacy, documentation, and monitoring
- Outline Human Rights and gender issues of current importance in South East and East Asia
- Detail the major theories on gender and development
- Be able to undertake a basic gender analysis in development
- Describe how a Rights Based Approach works within development projects

### **Assessment (see page 7-8 for more details)**

1. Take home paper on Human Rights Theory and violations	30%
2. Presentation: Gender or Human Rights issue in SEA	20%
3. Term Paper	50%

### Summary Schedule

	<b>Date</b>	<b>Topic</b>	<b>Notes</b>
1	7 Oct.	Introduction to human rights and gender issues	
2	14 Oct.	Human rights theories	
3	21 Oct.	Human rights: standards 1: ICCPR ICESCR	
4	1 Nov*	Human rights: standards 2: CAT, CRC, PWD	Tues. class
5	4 Nov.	Gender and human rights: CEDAW	Take home 1
6	11 Nov.	Human Rights: protection 1: UN, Regional,	
7	18 Nov.	Human Rights: protection 2: National Level	
8	25 Nov.	Right to development to Rights Based Approaches	TH 1 Due
9	2 Dec*	Gender and development theories	Asst.Prof.Dr.Philippe Doneys
10	9 Dec*	Gender Analysis for Development	Assoc.Prof.Dr.Kyoko Kusakabe
11	16 Dec	Women, poverty, and livelihood rights	Term Paper-brief
12	23 Dec	Reproductive and sexual rights	
13	6 Jan	Rights of Non citizens: Refugees, Stateless	
14	13 Jan	Rights of Non citizens: Trafficking, Migrant workers,	
15	20 Jan	Conflict and human rights.	

## Class Details

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### 1. Introduction to human rights and gender issues

**Reading:** None

**Seminar Topics:**

Outline major concepts in human rights, gender, and development  
Detail major developments in the field  
Discuss relationships between gender, human rights, and development  
Introduce current issues and debates

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### 2. Human rights theories

**Reading:**

Manfred Novak. *Introduction to the International Human Rights Regime*. Boston: Martinus, 2004. 73-95

**Seminar Topics:**

Moral, political, and legal foundations of human rights  
Post Vienna human rights  
Human rights in International Law  
Human rights in Asia (the Asian values debate)  
Implementing human rights

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### 3. Human rights: standards 1: ICCPR & ICESCR

**Reading:**

Rehman, Javaid. "ICCPR." *International Human Rights Law: A Practical Approach*. London: Longman, 2003. 376-404

Eide, Asbjorne *et al* eds. "Economic, Social and Cultural Rights as Human Rights." *Economic, Social and Cultural Rights: A Textbook*. 2<sup>nd</sup> ed. Dordrecht: Martinus Nijhoff, 2001. 9-28.

International Commission of Jurists. *Courts and the Legal Enforcement of Economic, Social and Cultural Rights Comparative experiences of justiciability*. Geneva: International Commission of Jurists, 2008. Read: Chapter 1 – ESC rights before courts: Introduction; Chapter 2 – Defining the content of ESC rights

**Treaties:** UDHR: Universal Declaration of Human Rights  
ICCPR: International Covenant of Civil and Political Rights  
ICESCR: International Covenant of Economic, Social and Cultural Rights

**Seminar Topics:**

Details of the key Human Rights instruments  
History of the drafting of the instruments  
Civil rights: Rights to vote, move, marry, privacy, information, fair trial.  
Economic and social rights: rights to work, leisure, education, and culture

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### 4. Human rights: standards 2: CAT, CRC, PWD

**Reading:**

Malcolm Evans. 'Getting to Grips with Torture.' *International and Comparative Law Quarterly*, 51 (2002): 365 – 383.

Rehman, Javid. "Rights of the Child." *International Human Rights Law: A Practical Approach*. London: Longman, 2003. 376-404

OHCHR. *From Exclusion to Equality: Realizing the rights of persons with disabilities. Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol*. Geneva: United Nations, 2007.

**Treaties:** Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment  
Convention on the Rights of the Child  
Convention on the Rights of Persons with Disabilities

**Seminar Topics:**

Defining torture, excuses for torture, responding to torture.  
Fundamentals of the rights of the child (best interests, participation)  
People with disabilities: reasonable accommodation, universal design, inclusion in society, equality.

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**5. Women's human rights: CEDAW**

**Reading:**

Hilary Charlesworth. "Not Waving but Drowning: Gender Mainstreaming and Human Rights in the United Nations." *Harvard Human Rights Journal* 18 (2006): 1-18.

Partners for Law in Development. "Foundational Framework of CEDAW.. *CEDAW: Restoring Rights to Women*. New Delhi: PLD, 2004.

**Treaty:** Convention on the Elimination of All forms of Discrimination Against Women

**Lecture Topics:**

History of Women's Rights  
Women's rights standards  
Key areas: Violence against women, Culture, gender and rights, non discrimination, equality.

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**6. Human Rights Protection 1: Human Rights at the UN**

**Reading:**

Magdalena Sepúlveda et al. *Human Rights Reference Book*..:

PART ONE: Chapter 6 "International Supervisory Mechanisms for Human Rights;

PART TWO: Chapter one: "The United Nations",

International Service for Human Rights. "A Simple Guide to the Treaty Bodies." Geneva: ISHR, 2010. pp 4-19

Working with the United Nations Human Rights Programme: A Handbook for Civil Society. Ch 5 "Human Rights Council." Ch 6 "Special Procedures." New York: United Nations, 2008.

**Seminar Topics:**

- Key Human Rights activities at the UN
- Treaty based mechanisms: State reports, Individual Complaints, and General Comments
- Charter based activities: role of the HR Council, the Universal Periodic Review, and Special Rapporteurs

- Brief Overview of regional mechanisms
- Process of building an ASEAN human rights Mechanism

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## **7. Human Rights Protection 2: National Level: National Human Rights Commissions, NGOs, domestication in law.**

### **Reading:**

Laurie Wiseberg. "The Role of NGOs in the Protection and Enforcement of Human Rights." *Human Rights: International Protection, Monitoring, and Enforcement*. Ed. Janusz Symonides. Paris, UNESCO 2001 347-364.

Hugo Stoke, 'Taking the Paris Principles to Asia: A Study of Three Human Rights Commissions in Southeast Asia – Malaysia, Indonesia and The Philippines' (CHR Report, CMI Michelsen Institute, 2007)

### **Seminar Topics**

- Role of advocacy
- Use of reports: thematic and country reports
- Case studies in ASEAN
- Input to policy formulation
- Policy pressure groups
- The accountability of NGOs

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## **8. Gender and development theories (Guest Lecture: Philippe Doney)**

### **Reading:**

Andrea Cornwall. "Revisiting the Gender Agenda." *IDS Bulletin* Volume 38 Number 2 March 2007.

Sabin Bieri. "Developing Gender, Transforming Development: Epistemic Shifts in Gender and Development Discourse over 30 Years." Premchander S, and Müller C, editors. *Gender and Sustainable Development: Case Studies from NCCR*. North-South. Perspectives of the Swiss National Centre of Competence in Research (NCCR). University of Bern, 2006.

### **Seminar Topics**

Approaches to gender and development  
 Women and Development Approach (WAD)  
 The Women in Development Approach WID  
 Gender and Development Approach (GAD)  
 Effect of development process on women and men  
 The Empowerment Approach

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## **9. Gender Analysis in Development (Guest Lecture: Kyoko Kusakabe)**

### **Reading:**

To Be Confirmed

### **Seminar Topics:**

Analysis of gender in development activities  
 practical skills in identifying gender issues  
 Programming for gender in development

## **10. Right to development and Rights Based Approach to development**

### **Reading:**

Arjun Sengupta. "On the Theory and Practice of the Right to Development." *Human Rights Quarterly* 24 (2002): 837-857.

Jakob Kirkemann Boesen & Tomas Martin. "Applying a Rights Based Approach: An Inspirational Guide for Civil Society." The Danish Institute for Human Rights, 2007. pp 8-30

Office of the High Commissioner for Human Rights. Frequently Asked Questions On a Human Rights-Based Approach to Development Cooperation. OHCHR, Geneva, 2006

**Treaty:** Declaration on the Right to Development

### **Seminar Topics:**

History of a right to Development

Violations through development

Political context to development rights

International obligations towards a right to develop.

Defining a Rights-based approach to development

Rights Based programming: the main elements: participation, accountability, rights as goals, addressing the marginalized, accountability.

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## **11. Women, poverty, and livelihood rights**

### **Reading:**

Valentine M. Moghadam. "The 'Feminization of Poverty' And Women's Human Rights." Gender Equality and Development Section, UNESCO July 2005.

World Bank. *Engendering Development: Through Gender Equality in Rights, Resources, and Voice*. Wahington: World bank, 2001.

Philip Alston. "Ships Passing in the Night: The Current State of Human Rights and the Development Debate Seen Through the Lens of the Millennium Development Goals." *Human Rights Quarterly* 27 (2005): 755-829.

**Seminar Topics:** Economic and Social rights of women

Women and poverty, Poverty as human rights violation

Theories and standards of livelihood rights

Government obligations and duties for livelihood rights

MDGs and livelihood rights.

**Seminar Questions:** What are the human rights standards for the right to food, water, and shelter?

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## **12. Reproductive and sexual rights**

### **Reading:**

Douglas Sanders. "Sexual orientation, gender identity, gender expression, intersexuality." *Routledge Encyclopedia of Human Rights*. [2008]

Julie Levinson. "Women's Health and Human Rights" *Women, Gender and Human Rights: A Global Perspective*. M. Agosin, ed. New Jersey: Rudgers UP, 2002.

**Seminar Topics:** Gender and sexuality in South East Asia

Rights to sexuality

Women's health issues  
Issues in women's reproductive rights

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### **13. Women, migration, and human rights: Refugees and Stateless**

#### **Reading:**

Ninette Kelley. "The Convention refugee Definition and Gender-based Persecution: A Decade's Progress." *International Journal of Refugee Law* 13.4 (2002): 559-569.  
Indira Goris. "Statelessness: what it is and why it matters." *Forced Migration Review* 32. UNHCR, 2009.

#### **Seminar Topics:**

Current trends in global migration and forced migration  
Terminology and legal categories in migration  
human rights of non -citizens  
Definition and status of refugees  
Refugee protection  
Trends in Asian refugee movements  
Causes of Statelessness  
Legal protection of Stateless people

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### **14. Women, migration, and human rights: Migrant Workers and Trafficking**

#### **Reading:**

Nicola Piper. "Rights of Foreign Workers and the Politics of Migration in South-East and East Asia." *International Migration* Vol. 42 (5) 2004: 71-97.  
OHCHR. "UN Fact Sheet: The Rights of Migrant Workers." Fact Sheet 24.rev 1. Geneva: United Nations.  
UN Office on Drugs and Crime. *Toolkit to Combat Trafficking in Persons*. Global Programme Against Trafficking in Human Beings. New York 2006.

#### **Seminar Topics:**

Current trends in global migration  
Definition and rights of refugees Migrant Workers and Trafficked persons  
Legal protection to migrant workers  
Status of the Convention on Migrant Workers and reasons for lack of ratifications  
Violations faced by migrant workers in the region  
Legal standards on human trafficking: Palermo Protocol and the TVPA  
Current causes and trends in trafficking  
Debates about commercial sex work/prostitution

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### **15. Conflict, human rights, and women.**

#### **Reading:**

Antonio Cassese. *International Law*. Oxford: Oxford UP, 2005. "Legal Restraints on Violence in Armed Conflict." 399-434.  
Kelly Dawn Askin. "Gender Crimes Jurisprudence in the ICTR: Positive Developments." *Journal of International Criminal Justice* 3 (2005),1007-1018  
Gardam, Judith Gail and Charlesworth, Hilary. "Protection of Women in Armed Conflict." *Human Rights Quarterly* 22.1 (2000): 148-166

#### **Seminar Topics:**

- Protection of vulnerable populations during conflict
  - Threats and Violations in times of conflict
  - Programming and humanitarian responses in states of emergencies.
  - Status of human rights during conflict.
  - State responsibilities in emergency situations
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## Assessment

### 1. Take Home Paper

**30%**

Students will complete a take home paper which will comprise of about 5 questions, and each answer is about 1-2 pages per question). The questions will be based on the reading and discussion of theories in the class. Instructions will be on the paper itself. The test will be based on the readings for the course, and a practical application of the theory gained during the course.

### 2. Presentation: Human Rights or Gender Issue

**20%**

A presentation of about 15 minutes will be prepared by the student. The topic will be on a current human rights or gender issue, preferably from the region. A proposed list of topics will be discussed in class. If the class is large, presentations will be done in pairs or teams. Guidelines for presentation:

- The presentation alone will be assessed; however, the presenter **will** need to submit brief notes of the presentation. The easiest method is a printed copy of a PowerPoint presentation.
- The assessment will be based upon:
  - Accurate knowledge of the main concepts, principles, and theories
  - Ability to detail the issues and arguments around the issue
  - Delivery of material in a way the engages the audience and encourages questions
- For a presentation of about 15 minutes there should be no more than 12 slides. Further, students are not allowed to read out the slides. The student should also find out the proper pronunciation of names and terms they use.
- Presentations dates will be in the third week. Students will present in the class which is most relevant to their topic

### 3. Term Paper

**50%**

Students will complete a term paper on a topic of their choice within the area of gender and human rights. The term paper will be 3,000 words (or about 15 pages). Students must first submit a brief outline (about 6-10 lines) on their proposed topic. This must be approved by the lecturer first. Students will submit the short statement in week 10

- Please submit your topic or question in week 10. This will be a very brief (6-10 lines) statement of what the topic for your final paper.
- The paper will be in 11 or 12 point times new roman spaced at 1.5.
- The paper will have a title, proper referencing system (Harvard or APA), and a bibliography.

### Term papers.

The papers will be marked on (in order):

- Originality and strength of argument. The paper must contain an argument or critical point of view. Papers which are well researched but descriptive may pass, but they will not get to the B+ or A level. The argument will be your ideas and criticisms of the topic, it will be

your voice. Thus the paper must have expressions of your ideas and opinions, backed up with your research and reading.

- Original research. The student is expected to research broadly, and read the material thoroughly. Using Google alone is not enough. The student is expected to consult academic articles, books, journals or magazines, and other research resources. A major part of the original research is to engage with the reading and research on a critical level. You cannot only read and describe, but must give the context to the work you read, and also engage critically (that is evaluate) this work. Finally you must clearly demonstrate your research. This means the research must be presented properly by being accurately referenced so that the paper clearly displays the research you have undertaken.
- Logical essay structure. The term paper is in the category of an academic paper. It must conform to the standards of this genre. This means, it must have an introduction; it must give the theoretical, social, political context; it must have a conclusion. Further, the argument must be logical in its structure, and convincing in what it claims. You may need to develop counter arguments or explain contentious points of view depending on the argument you take.
- Technical proficiency (essay format, bibliography, and referencing). While this is not a major concern, it is expected that students are professional in the presentation of their work, and that they check the spelling, grammar, referencing and page layout. At this level, students should be presenting work of a near publishable standard.