Learning Goals

Course content:

- Basic features and historical evolution of the present international HR system
- Philosophical positions and debates
- Functions and uses of human rights domestically and internationally
- The grounding of HR in different cultures

Skills to be acquired:

- Analyse a political situation in terms of human rights and elaborate a strategy for improving it
- Assess the validity and usefulness of different approaches to improving HR situations
- Understand resistance to HR and evaluate the weight of arguments in favour of as well as against HR policy initiatives
- Identify key players and resource bases for promoting and implementing human rights

Perspectives on Human Rights

- A law-oriented definition: That branch of international law which is concerned with the protection of individuals and groups against violations of their internationally guaranteed rights, and with the promotion of these rights (Burgenthal 2009)

- Definitions from anthropology: a particular way of ordering political relations in nation-states; a particular way of framing disputes as well as common aspirations; set of claims about how particular privileges belong to particular groups at particular sites

- Definitions from political science: a response to modernity, social justice in the state- and market-driven world of today (Donnelly 2003); what establishes the sovereign (popular sovereignty) in democratic political systems (e.g. Habermas 1994)

Human Rights as an Object of Study: Characteristics

Features/characteristics (according to Nickel):

- HR is not a utopia, not (a part of) religion or political vision
- HR are minimum standards / for enabling decent lives / for defining state behaviour
- HR is a category of political thought and appraisal
- HR are legal norms / universalising / high priority norms
- HR possess an international and national protection system (the UN, the state, NGOs)

- HR are egalitarian

'Rights' shape social worlds (structure social fields):

- Define relations as contractual, between agents
- Establish rights-holders and addressees
- Define scopes of action

Human Rights as an Object of Study in Different Disciplines

History:

- The history (evolution) of the present international HR system
- The roots of the present system in the West
- The roots of human rights-like ideas in past societies
- The roots of HR in modernity (contemporary societal challenges)

Social sciences:

- The functioning of the system at different levels: local, national, international
- The spread of the system, how to explain variations?
- How to promote HR

Philosophy:

- How to justify HR; in what ways are HR universal?

(Vs law: can this action be typified as a HR violation?)

Translating Human Rights - 1

UDHR, Art 1, official text, English version:

All human beings are born free and equal in dignity and rights

They are endowed with reason and conscience

And should act towards one another in a spirit of brotherhood

Tzeltal version:

All human beings, from the moment they are born

Already possess the respect and well-being of the world

And have the same understanding of the heart's thinking

And desire a great, mutual respect

Translating Human Rights - 2

Comparing the English and Tzeltal versions of Art 1:

- style (genre): law? sacred claims? holy book? book of counsel?

- concepts:
    - 'free and equal'; 'rights', 'reason', 'brotherhood'
    - 'respect', 'well-being of the world', 'heart's thinking'

- institutional framework:
    - state-based society, rights-carrying language
    - small-scale and/or non-modern community

Human Rights in Anthropology

What is anthropology?

From …

- -the study of bounded, coherent units ('cultures'), and how everything is interconnected (holistic approach)
- -the exhaustive description ('ethnography', lists of traits) of a 'culture'

To …

- -the study of meaning production: 'culture' is 'shared meanings' becoming 'shared' by being contested
- -the study of how 'culture' (as a collection of 'sites' where meaning is stabilised by power) structure social interaction and how interaction create culture

Human Rights in Anthropology

HR and Anthropology: A troubled relationship:

From 'cultural relativism' ...

AAA 1947: Individuals realize their personalities through their culture, hence the respect of individual differences entails a respect for cultural differences: «... only when a statement of the right of men to live in terms of their own traditions is incorporated ... can the next step of defining the rights and duties of human groups as regards each other be set upon the firm foundation of the present-day scientific knowledge of Man.»

To 'constructing culture'

AAA 1998: «People and groups have a generic right to realize their capacity for culture, and to produce, reproduce and change the conditions and forms of their physical, personal and social existence, so long as such activities do not diminish the same capacities of others.»

Consider: our selves or identities: individual as well as collective phenomena

Human Rights in Anthropology

Definitions of 'law' in anthropology:

- 'doubly defined rules of social conduct';
  first as **norms** (or social conventions, or custom) that regulate social action in social fields
  then as **law**: written and state-sanctioned

The study of law in anthropology:

- The study of social (political) control/regulation/order: domination, deviation, conformity, as observable in e.g. rituals, courts, mediations, witchcraft, etc. (a Durkheimian approach: the community is there before the individual; structure shapes agency)

- The study of conflict resolution: how such processes produce legal institutions (the individual is there before the community; repeated agency produces structure)

Human Rights in Anthropology

Anthropologists often study human rights by regarding them as 'social practices' that may generate institutionalised behaviour – or the other way round, how imported institutions generate new social practices (the vernacularisation of human rights), for instance by:

- looking at how 'human rights talk' mobilises people around universalising claims
- investigating how 'human rights talk' actually furthers state penetration
- following how 'human rights talk' dichotomises political and social struggles by focussing on actors (their rights and duties) rather than relations and overall balances