

Dalhousie University
Political Science Department
Course Syllabus
POLI 4403/5403: “Human Rights: Philosophical Issues.”
Winter term

Lecturer: Dr. Samar El-Masri
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1-Course Description and Objectives

This course examines the historical, conceptual and legal development of human rights from the 13th century to the present, focusing on the shift from natural law to natural rights and finally human rights. In addition, the course seeks to address and discuss the major philosophical debates in the area of human rights in modern times.

Scholars are far from unanimous on various issues including the very idea of a universal list of human rights for all. They disagree on whether political and civil rights should be given primacy over socio-economic rights, or whether individual rights are enough to secure the rights of the minorities. A major debate has also ensued regarding women’s rights and whether the practice of their rights conflicts with cultural and religious rights, as appears to be the case in so many communities. Legal rules and ethical norms regarding intervention inside nation states when, for example, ethnic cleansing is taking place, are matter of continuing debate. Scholars have also discussed the emergence of new rights, like environmental rights. All of these issues and more will be addressed, discussed and debated in this course.

2-Required Reading:

Patrick Hayden, *The Philosophy of Human Rights* (St. Paul, MN: Paragon House, 2001)
Jack Donnelly, *Universal Human Rights: In Theory and Practice*, third edition (USA: Cornell University Press, 2013)

3-Recommended Readings:

Jack Mahoney, *The Challenge of Human Rights: Origin, Development and Significance* (Malden, MA: Blackwell Publishing, 2007)

Also:

FOR ALL ADDITIONAL READINGS CHECK OUT THE LAST PAGE OF THIS SYLLABUS.

4-Subjects

I-Background:

Jan 6: Introductions

Jan 13 Subject One: Part One: Definition, Philosophical Evolution of Human Rights: From Natural law to Natural Rights

Readings:

- Patrick Hayden, *The Philosophy of Human Rights*, 3-13; 57-88; 109-136;
- Jack Donnelly, *Universal Human Rights: In Theory and Practice*, third edition, 1-13.

Graduates: (In addition graduates should read:)

- Jack Mahoney, *The Challenge of Human Rights*, 1-33.

Jan 20 Subject 2: Part Two: Philosophical evolution of human rights from natural rights to human rights

Readings:

- Patrick Hayden, *The Philosophy of Human Rights*, 174-187; 212-241. 241-258. 271-287. 287-298. 298-335.

Jan 27, Subject 3: Historical and Legal Evolution of Human Rights:

Readings:

- Jack Donnelly, *Universal Human Rights*, 75-91.
- Brian Tierney, "Historical Roots of Modern Rights," in *Rethinking Rights: Historical, Political, and Philosophical Perspectives*(ed.) Bruce P. Frohnen and Kenneth L. Grasso (Missouri, The University of Missouri, 2009
- Samuel Moyn, *The Last Utopia: Human Rights in History* (US and England: The Belknap Press of Harvard University, 2010). Check it out at <http://www.thedivineconspiracy.org/Z5260Z.pdf> **AND/OR check out his lecture on utube at** <http://www.youtube.com/watch?v=oqtFJZB27M8>

Graduates:

- Mahoney, *The Challenge of Human Rights*, 43-46; 140-147; 151-6

II-Challenges and Debates:

Feb 3, Subject 4: Universalism versus Relativism: Is Human Rights Universal, or are they relative depending on cultural values?

Readings:

- Patrick Hayden, *The Philosophy of Human Rights*, 379-397; 397-409; 409-423
- Donnelly, *Universal Human Rights*, 93-103
- Chapter 6, Alasdair MacIntyre, *After Virtue*, 3rd edition (Indiana, US: Notre Dame Press, 2007) available online at <http://epistemh.pbworks.com/f/4.+Macintyre.pdf>

Graduates:

- Andrew Heard, "Human Rights: Chimeras in Sheep's Clothing," Simon Fraser University (online) 1997 (cited 2013); available from <http://www.sfu.ca/~aheard/417/util.html>

Feb 10, Subject 5: Political and Civil Rights or Social and Economic rights? The debates on their hierarchy (if any) and whether the West really undermined the economic, social and cultural rights.

Readings:

- Hayden, *The Philosophy of Human Rights*, 163-171. 397-409
- Jack Donnelly, *Universal Human Rights: In Theory and Practice*, third edition (USA: Cornell University Press, 2013), 40-45. 248-253

For graduates:

- Daniel J. Whelan, *Indivisible Human Rights: A History* (University of Pennsylvania Press, 2010), 1-11
- Donnelly, *Universal Human Rights*, 235-253.
- James W. Nickel, "Rethinking Indivisibility: Toward a theory of Supporting Relations between Human Rights," *Human Rights Quarterly* 30 (2008) 984-1001; also available at http://law.duke.edu/sites/default/files/migrated_files/1340204784dl_file-cicl-pdf-rethinking_indivisibility_brief.pdf

Feb 24, Subject 6: Debates on Minority Rights (Are individual rights enough to secure the rights of the minorities? Do we need a new approach that is based on multiculturalism to deal with the new challenges in the world?)

Readings:

- Jack Donnelly, *Universal Human Rights*, 45-54.
- Hayden, *The Philosophy of Human Rights*, 427-445; 445-462.

Graduates:

- Joel E Oestreich, "Liberal Theory and Minority Group Rights," *Human Rights Quarterly* 21, no 1 (Feb 1999), 108-132.

March 3, Subject 7: Women's Rights Debates (specifically whether they conflict with cultural rights, and what is to be done about domestic violence and the use of women and girls as a tactic of war)

Readings:

- Charlotte Bunch, "How Women's Rights Became Recognized as Human Rights," in *The Unfinished Revolution* (ed.) Minky Worden (New York: Seven Stories Press, 2012), 297-304
- Hayden, *The Philosophy of Human Rights*, 526-543; 505-526.
- Martha Nussbaum, "In Defense of Universal Values," *The University of Chicago* (Online) 1999 (cited 2013); available from <http://philosophy.uchicago.edu/faculty/files/nussbaum/In%20Defense%20of%20Universal%20Values.pdf>

For graduates:

- Judith Sunderland, "Damned If You Do, Damned if You Don't," in *The Unfinished Revolution* (ed.) Minky Worden (New York: Seven Stories Press, 2012), 297-304
- Anneke Van Woudenberg, "Confronting Rape as a Weapon of War in the Democratic Republic of Congo," in *The Unfinished Revolution* (ed.) Minky Worden (New York: Seven Stories Press, 2012),

March 10, Subject 8: Ethnic cleansing and humanitarian intervention (to be assigned)

March 17, Subject 9: Human rights and the Environment (to be assigned)

March 24, Conclusions

March 31: Exam

5- Evaluation Profile:

Class Participation: 10%

Essay: 25%

Presentation 1: 15%

Presentation 2: 15%

Final Exam: 35%

6- Final Exam: March 31st

This exam will be held in class. It will consist of three questions, where you have to answer two. The answers should be written in a short-essay form. You are strongly advised to start reviewing the material from day one. This way you will have the opportunity not only to understand the material better but also to prepare for the exam more effectively.

The exam will cover the class lectures and the required readings. I strongly advise students, especially graduate students, to read as much as they can from the "Additional Readings list" as it will enrich your understanding and analysis. It will

also assist you in your research for your essays, as the readings are organized according to the subjects that we are going to cover. If you have any question on any of the issues covered, please do not hesitate to ask me.

7-Essay Project

Students are required to write an argumentative essay-project. You can choose any human right's issue that is of interest to you and write about it. It should be no more than a ten-page paper (excluding bibliography), double-spaced; font should be 12 Times New Roman. You will be marked on the breadth of the material you cover, and your ability to discuss it clearly in support of your chosen argument. The format and the proper documentation of your essay will be also taken into account in the marking. Please remember that **PLAGIARISM IS THEFT. The student will receive a ZERO if he/she copied his/her essay from another author. Any information or analysis taken from any source should be properly documented.**

8-TWO Presentations

From February 3 to March 24 we will have our round-table human rights debates. Each week two students will present to us two opposing views on a human right's issue. What happens here is that in the second week of the semester I will ask each attending student to choose TWO topics of interest from the subject list. I will then assign presentation dates. It is the RESPONSIBILITY OF THE STUDENT to ensure that he/she has two presentation topics.

9-Participation & Attendance

Attendance is of great importance in this class and so is participation and they will make a difference in the final mark. Participation includes not only answering the professor's questions in class, but also asking questions and discussing issues and analyzing concepts in class.

Please do not hesitate to email me or visit me during my office hours to discuss any of your concerns.

ADDITIONAL RECOMMENDED READINGS:

Subject One: Definition, Philosophical Evolution Part I:

- Rex Martin, "On Hohfeldian Liberties," *Legal Philosophy: General Aspects*, (eds.) Michel Troper and Annalisa Verza (New York: International Association for Philosophy of Law and Social Philosophy, 1999)
- Jack Donnelly, *Universal Human Rights in Theory and Practice*, second edition (Cornell University Press, 2003).
- Katerina Dlacoura, *Islam, Liberalism and Human Rights: Implications for international relations*, third edition (I.B.Tauris Publishers, 2007).
- Daniel J. Whelan, *Indivisible Human Rights: A History* (University of Pennsylvania Press, 2010).
- Maryanne Cline Horowitz, "The Stoic Synthesis of the idea of natural law in Man: Four Themes," *Journal of the History of Ideas* 35, No. 1 (Jan-Mar, 1974).
- Brian Tierney, "Historical Roots of Modern Rights," in *Rethinking Rights: Historical, Political, and Philosophical Perspectives* (ed.) Bruce P. Frohnen and Kenneth L. Grasso (Missouri, The University of Missouri, 2009).
- Brian Tierney, *The Idea of Natural Rights* (Cambridge and Michigan, Emory University, 1997).
- Lynn Hunt, *Inventing Human Rights: A History* (NY: W.W. Norton & Company, 2008).
- James Miller, *Rousseau: Dreamer of Democracy* (USA: Yale University, 1984).
- David Hume, "Of the Original Contract," check it out from <http://www.constitution.org/dh/origcont.htm>
- Palden Gyal, "Kant: The Father of Human rights," Merabsarpa (online) Nov 6th, 2012 (cited August 2012 (; available from <http://www.merabsarpa.com/philosophy/kant-the-father-of-human-rights>

Subject Two: Part Two: Philosophical Evolution: From Natural Rights to Human Rights:

- Brian Tierney, "Historical Roots of Modern Rights," in *Rethinking Rights: Historical, Political, and Philosophical Perspectives*(ed.) Bruce P. Frohnen and Kenneth L. Grasso (Missouri, The University of Missouri, 2009), 50-54.
- H.L.A. Hart, "Are there any Natural Rights?" *The Philosophical Review* 64, no2 (April 1955) 175-191 See it on <http://isites.harvard.edu/fs/docs/icb.topic97122.files/Hart.pdf>
- Martha C. Nussbaum, "Capabilities and Human Rights," *Fordham Law Review* 66 (1997), issue 2; available from <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=3391&context=flr>
- Martha Nussbaum, "An Interview," *Harvard University Press*; May 19, 2011; available from: <http://www.youtube.com/watch?v=AoD-cjduM40>
- Jose-Manuel Barreto, "Rorty and Human rights: Contingency, emotions and how to defend human rights telling stories." *Utrecht Law Review* 7, issue 2 (April 2011). See *Utrecht Law Review* (Online) cited August 2013; available from <http://www.utrechtlawreview.org/index.php/ulr/article/viewFile/164/163>
- Tenzin Gyatso (14th Dalai Lama) "Human Rights, democracy and Freedom," *His*

Holiness the 14th Dalai Lama of Tibet (online) 2013 (cited August 2013)
available from <http://www.dalailama.com/messages/world-peace/human-rights-democracy-and-freedom>

Pankaj Mishra "Holy Man," *New Yorker* (online) March 31st, 2008 (cited August 2013); available from
http://www.newyorker.com/arts/critics/books/2008/03/31/080331crbo_books_mishra

Subject Three: Historical and Legal Evolution of Human Rights:

Brian Tierney, *The Idea of Natural Rights* (Cambridge and Michigan, Emory University, 1997).

Bruce P. Frohnen, "Individual and Group Rights," in *Rethinking Rights: Historical, Political, and Philosophical Perspectives* (ed.) Bruce P. Frohnen and Kenneth L. Grasso (Columbia and London: University of Missouri Press, 2009), 106-132.

Lynn Hunt, "Inventing Human Rights" *University of California Television*.
March 7, 2008 <http://www.youtube.com/watch?v=YZVD1G4q0bA>

Jeffrey Flynn, "Human Rights in History and Contemporary Practice: Source Materials for Philosophy," in *Philosophical Dimensions of Human Rights*, (ed.) Claudio Corradetti (Springer Science, 2012).

George Carey, "Natural Law, Natural Rights, and the Declaration of Independence," in *Rethinking Rights: Historical, Political, and Philosophical Perspectives* (ed.) Bruce P. Frohnen and Kenneth L. Grasso (Columbia and London: University of Missouri Press, 2009),

Sumner B Twiss, "History, Human Rights, and Globalization," *The Journal of Religious Ethics* 32, No1 (Spring 2004).

Eva Brems, "Protecting the Rights of Women Questions for reflection and Discussion," *Human Rights in the World Community: Issues and Action*, 3rd edition, (ed.) Richard Pierre Claude and Burns H. Weston, (USA: Pennsylvania Studies in Human rights, 2006).

Thomas Buergenthal, Dinah Shelton and David Stewart, *International Human Rights in a Nutshell*, Third edition, (Minnesota, USA: West Group Publishing, 2002) 2-3.

Francisco Forrest Martin, Stephen J. Schnably, Richard J. Wilson, Jonathan S. Simon, and Mark V. Tushnet, *International Human Rights & Humanitarian Law: Treaties, Cases & Analysis*, (New York: Cambridge University Press, 2006),3.

Thomas Buergenthal, Dinah Shelton and David Stewart, *International Human Rights in a Nutshell*, Third edition, (Minnesota, USA: West Group Publishing, 2002).

Micheline Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era* (USA: University of California Press, 2008).

Oona A. Hathaway "Why Do Countries Commit to Human Rights Treaties?" *Journal of Conflict Resolution* 51, no 4, (August 2007)592-594:

Samar El-Masri, "The Hariri Tribunal: Politics and International Law," *Middle East Policy* 15, No. 3 (2008); 80-92.

Aryeh Neier, *International Human Rights Movement: A History* (NJ: Princeton University Press, 2012) (first chapter and second), Chapters 1 and 2.

Subject Four: Universalism vs. Relativism:

- Brian Tierney "The Idea of Natural Rights-Origins and Persistence," *Northwestern Journal of International Human Rights* 2 (Issue 1) Spring 2004; available from <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1005&context=njihr>
- Jack Mahoney, *The Challenge of Human Rights* (USA: Blackwell Publishing, 2007), 71.
- Alasdair MacIntyre "Lecture of Human Rights," *London Metropolitan University*, Nov 18th, 2011
- Randy Barnett, "A Law Professor's Guide to Natural Law and Natural Rights," *Harvard Journal of Law and Public Policy* (Summer 1997); available from <http://randybarnett.com/Guide.htm>
- Buergethal et al. , *International Human Rights in a Nutshell*, 39-40.
- Oona A. Hathaway "Why Do Countries Commit to Human Rights Treaties?" *Journal of Conflict Resolution* 51, no 4, (August 2007)

Subject Five: Civil and Political Rights and/or Social Economic and Cultural Rights:

- Vasiliki Karzi, "Indivisibility of Human rights," *Academica.edu (online)* (cited 2013) http://www.academia.edu/4410456/indivisibility_of_human_rights
- D. Otto, "Defending Women's Economic and Social Rights: Some Thoughts on Indivisibility and a New Standard of Equality," *in Giving Meaning to Economic, Social, and Cultural Rights* (ed.) I. Merali and V. Oosterveld, (USA: University of Pennsylvania Press 2001), 52-70,
- "Who Will be Accountable: Human Rights and the post-2015 Development Agenda." *OHCHR* (online) (New York and Geneva, 2013) (cited 2013); available from <http://www.ohchr.org/Documents/Publications/WhoWillBeAccountable.pdf>
- Alex Kirkup and Tony Evans, "The Myth of Western of Western Opposition to Economic, Social, and Cultural Rights?: A Reply to Whelan and Donnelly," *Human Rights Quarterly* 31 no 1, (Feb 2009), 221-237
- Susan L. Kang, "The Unsettled Relationship of Economic and Social Rights and the West: A Response to Whelan and Donnelly," *Human Rights Quarterly* 31, no 4, (Nov 2009), 1006-1029.
- Daniel J Whelan and Jack Donnelly, "Yes, a Myth: A Reply to Kirkup and Evans," *Human Rights Quarterly* 31, no 1, February 29, 239-255.
- Daniel J. Whelan and Jack Donnelly, "The Reality of Western Support for Economic and Social Rights: A Reply to Susan L. Kang," *Human Rights Quarterly* 31, no 4, (Nov 2009), 1030-1054.
- Mary Robinson, "Advancing Economic, Social and Cultural Rights: The Way Forward." *Human Rights Quarterly* 26, no 4 (Nov 2004); 866-872.

Subject Six: Minority Rights:

Will Kymlicka, *Multicultural Citizenship: A liberal theory of Minority Rights*, (New York: Oxford University Press, 1995), Chapter 1. You can check out this selection from http://books.google.ca/books?id=5ivCp2bvqckC&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false

Will Kymlicka, "Multiculturalism and Minority Rights: West and East," *Journal on Ethnopolitics and Minority Issues in Europe* (issue 4) 2002; available

from

http://www.ecmi.de/fileadmin/downloads/publications/JEMIE/2002/nr4/Focus4-2002_Kymlicka.pdf

Natan Lerner, *Group Rights and Discrimination in International Law*, 2nd edition (USA: Martinus Nijhoff Publishers, 2003), 7-29.

Balraj Puri, "Sovereignty, Territorial Integrity and Right of Self-Determination," *Economic and Political Weekly* 36, No. 4 (Jan27-Feb2, 2001), 263.

Geoff Gilbert, "Religio-nationalist minorities and the development of minority rights law," *Review of International Studies* (1999) 25, 393-7.

Cassese, *Self-Determination of Peoples* (Cambridge University Press, 1995)

Michael Freeman, "The Right to Self-determination in International Politics: Six Theories in Search of a Policy." *Review of International Studies* (1999) 355-370

A lecture done in the Canadian Embassy in Berlin by Will Kymlicka
"Multicultural Politics: Success, Failure and the Future," November 2012 (cited 2013); available from <http://www.youtube.com/watch?v=cLcnYkjr0TI>

Michael Freeman, "The Right to Self-determination in International Politics: Six Theories in Search of a Policy." *Review of International Studies* (1999) 355-370

Subject Eight: Women's Rights' Debates:

Gara LaMarche "Funding an unfinished Revolution," in *The Unfinished Revolution* (ed.) Minky Worden (New York: Seven Stories Press, 2012), 309.

Hilary Charlesworth and Christine Chinkin, "The Gender of Jus Cogens," *Human Rights Quarterly* 15 (1993), 68-69.

Ellen Chesler, "The Shoulders We Stand On," in *The Unfinished Revolution* (ed.) Minky Worden (New York: Seven Stories Press, 2012), 17-29.

Sumner B Twiss, "History, Human Rights, and Globalization," *The Journal of Religious Ethics* 32, No1 (Spring 2004).

Rebecca J. Cook, "Women," in *The United Nations and International Law*, ed. Christopher C. Joyner (Cambridge: Cambridge University Press, 2001)

Ekaterina Yahyaoui Krivenko. *Women, Islam and International Law: Within the context of the Convention on the Elimination all forms of Discrimination against Women* (The Netherlands: Koninklijke Brill, 2009)

Debra L Delaet, *The Global Struggle for Human Rights* (US: Thomson Wadsworth, 2006) 121-124.

Hillary Clinton speech in the Vienna Conference available from

<http://www.americanrhetoric.com/speeches/hillaryclintonbeijingspeech.htm>

"Four Conferences on Women," UN (online) 2000 (cited 2013); available from <http://www.un.org/womenwatch/daw/followup/session/presskit/hist.htm>