

Human Rights II: History and Theory
HMRT 20200/30200 (= HIST 29302/39302, ISHU 28800/38800, LAWS 41301, INRE 31700, LLSO 27100, CRPC 29302)
Instructor: Michael Geyer, History – TA: Jennifer Amos, History
Tues-Thurs: 1:30-2:50 pm
HGS (Hinds Geophysical Science) 101

This course is concerned with the history and theory of the modern human rights regime. We will start with the present conundrum of human rights: a surfeit of human rights law, nationally and internationally, and an actual lack of rights for individuals and people; the proliferation of humanitarian activism and the suspicion that it will not alleviate misery and provide succor. The discussion of the present will lead us to wonder when, where, and for whom human rights and, for that matter, humanitarianism provide actual solutions to real-life problems – and what these problems might be. We will also explore the passions that motivated people to pursue human rights and the empathy that led them to uproot injustice – and what this passion did and did not achieve. The revolutionary challenges to national and international society in the late eighteenth and in the mid twentieth century will be the two pivots of this inquiry. But we will also spend a good deal of time wondering about the curious absence of human rights and in the midst of the proliferation of humanitarian good will in moments of imperialism. This, in turn, will give us plenty of material to return to the present and to come to some informed conclusions, where we stand today in terms of human rights.

-Assignments-

For Undergraduates: Two essays – a shorter one (8 pages) in lieu of a mid-term (due February 1, at the end of the lecture) and a longer one (12 pages) in lieu of a final (due March 9, at the end of the last lecture).

For Graduates: A short (3-5 pages) assessment of assigned readings for one session (due February 1, at the end of the lecture) research paper of 15-18 pages (due March 9, at the end of the lecture).

-Books-

All readings are on reserve. The following books are available at the Seminary Co-op (5757 South University Avenue):

- Bass, Gary Jonathan. *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. Princeton: Princeton University Press, 2000.
- Gould, Carol C. *Globalizing Democracy and Human Rights*. Cambridge, U.K.; New York: Cambridge University Press, 2004.
- Hunt, Lynn. *Inventing Human Rights: A History*. New York; London: W.W. Norton, 2007.
- Mamdani, Mahmood. *Saviors and Survivors: Darfur, Politics, and the War on Terror*. New York: Pantheon Books, 2009.
- Mazower, Mark. *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations*. Princeton: Princeton University Press, 2009.
- Paine, Thomas. *Rights of Man*. New York: Penguin Classics, 1984.
- Tribe, Laurence H. *The Invisible Constitution*. Oxford ; New York: Oxford University Press, 2008.
- Westad, Odd Arne. *The Global Cold War: Third World Interventions and the Making of the Contemporary World*. Cambridge, UK: Cambridge University Press, 2006.
- (suggested) Lauren, Paul Gordon. *The Evolution of International Human Rights*. Philadelphia: University of Pennsylvania Press, 1998.

Syllabus

Consult texts with an asterisk (*) as preparation for the lecture. Use the assigned readings for your paper.

(1a) Introduction: What are human rights?

Reading: *"human rights," *Encyclopædia Britannica* (2008).
<<http://search.eb.com/eb/article-9106289>>

I. SECTION I - The Contemporary Human Rights Conundrum

General: Turner, Bryan S. *Vulnerability and Human Rights*. University Park, Pa.: Pennsylvania State University Press, 2006.

(1b) Universal Human Rights in a World of Difference

Reading: *Goodhart, Michael. "Origins and Universality in the Human Rights Debates: Cultural Essentialism and the Challenge of Globalization." *Human Rights Quarterly* 25, no. 4 (2003): 935-64.

Benhabib, Seyla. *The Claims of Culture: Equality and Diversity in the Global Era*. Princeton, N.J.: Princeton University Press, 2002, chapter 3.

(2a) Combating and Containing Violence: Genocide – Law of War

Reading: *Mamdani, Mahmood. *Saviors and Survivors: Darfur, Politics, and the War on Terror*. New York: Pantheon Books, 2009.

(2b) Humanitarianism and its Limits

Reading: *Rieff, David. "Humanitarianism in Crisis." *Foreign Affairs* 81, no. 6 (2002): 111-21.

*De Waal, Alex. "No Such Thing as Humanitarian Intervention." *Harvard International Review*. 21 March 2007.
<http://hir.harvard.edu/index.php?page=article&id=1482>

Omaru-Otunnu, Amii. "Western Humanitarianism or Neo-Slavery?" *Black Star News*. 7 November 2007.
<http://blackstarnews.com/?c=135&a=3882>

Tirman, John. "The New Humanitarianism: How Military Intervention Became the Norm." *Boston Review*. December 2003/January 2004. <
<http://bostonreview.net/BR28.6/tirman.html>>

(3a) *The Question of Sovereignty and the Politics of Exception*

Reading: *Scheuerman, William. "Survey Article: Emergency Powers and the Rule of Law after 9/11." *The Journal of Political Philosophy* 14, no. 1 (2006): 61-84.

Gross, Oren, and Fionnuala Ní Aoláin. *Law in Times of Crisis: Emergency Powers in Theory and Practice*. Cambridge: Cambridge University Press, 2006, chapter 4.

Kent, Ann. "Waiting for Rights: China's Human Rights and China's Constitutions, 1949-1989." *Human Rights Quarterly*, Vol. 13, No. 2 (May, 1991), pp. 170-201.

"A Road Towards Peace, Harmony, and Common Development." Statement by Mr. Li Zhaoxing, Minister of Foreign Affairs of China at the General Debate of the 60th Session of the UN General Assembly. 19 September 2005. <http://www.globalpolicy.org/images/pdfs/chinesestatement.pdf>

(3b) *International Law: Can Global Society be Constitutionalized?*

Reading: *Daniele Archibugi, "From the United Nations to Cosmopolitan Democracy," in *Cosmopolitan Democracy: An Agenda for a New World Order*, ed. Daniele Archibugi and David Held (Cambridge, MA: Polity Press, 1995), 121-79.

*Nancy Fraser, "Reframing Justice in a Globalizing World," *New Left Review* 36 (2005): 69-88. <http://newleftreview.org.proxy.uchicago.edu/?getpdf=NLR27003&pdflang=e>

Goodale, Mark. "Empires of Law: Discipline and Resistance within the Transnational System." *Social and Legal Studies* 14, no. 4 (2005): 553-83.

SECTION II - The Modern Origins of Human Rights

Textbook: Ishay, Micheline R. *The History of Human Rights from Ancient Times to the Globalization Era*. Berkeley: University of California Press, 2004, chapters 1-2

(4a) *Containing and Challenging Empire*

Reading: *Francisco de Vitoria, "On the American Indians." In *Francisco de Vitoria Political Writings*, edited by Anthony Pagden and Jeremy Lawrance, 231-92. Cambridge, UK: Cambridge University Press, 1991.

Kant, Immanuel. "Perpetual Peace: A Philosophical Sketch." In *Immanuel Kant Political Writings*, edited by Hans Reiss, 93-130. Cambridge, UK: Cambridge University Press, 1991.

(4b) Containing and Challenging Sovereignty:

Reading: *Paine, Thomas. *Rights of Man*. New York: Penguin Classics, 1984.

John Locke, "The Second Treatise of Government: An Essay Concerning the True Original, Extent, and End of Civil Government." In *Two Treatises of Government*, edited by Peter Laslett, 265-428. Cambridge, UK: Cambridge University Press, 1970. (esp. chpts. 2, 5, 6, 7, 11, 18)

Tuck, Richard. "The 'Modern' Theory of Natural Law." In *The Languages of Political Theory in Early-Modern Europe*, edited by Anthony Pagden, 99-119. Cambridge, UK: Cambridge University Press, 1987.

(5a) Civilizing Society

Reading: *Hunt, Lynn. *Inventing Human Rights: A History*. New York; London: W.W. Norton, 2007.

Dubois, Laurent. *A Colony of Citizens: Revolution and Slave Emancipation in the French Caribbean, 1787-1804*. Chapel Hill: University of North Carolina Press, 2004. Introduction and Chapter 1: Insurrection and the Language of Rights, pp. 1-30.

Clark, Elizabeth B. "'The Sacred Rights of the Weak': Pain, Sympathy, and the Culture of Individual Rights in Antebellum America." *The Journal of American History* 82, no. 2 (1995): 463-93.

Samuel Moyn, "Empathy in History, Empathizing with Humanity," *History & Theory* 45.3 (October 2006): 397-415. {ebSCO}

SECTION III- THE CONSTITUTIONAL REVOLUTION

Textbook: Lauren, Paul Gordon. *The Evolution of International Human Rights*. Philadelphia: University of Pennsylvania Press, 1998, chapter 2

(5b) *The Constitutional Revolution and The Positivization of Law*

Reading: *Tribe, Laurence H. *The Invisible Constitution*. Oxford ; New York: Oxford University Press, 2008.

Stourzh, Gerald. "Liberal Democracy as a Culture of Rights: England, the United States and Continental Europe." In *From Vienna to Chicago and Back: Essays on Intellectual History and Political Thought in Europe and America*, edited by Gerald Stourzh, 304-44. Chicago; London: University of Chicago Press, 2007.

(6a) *Empire and Civilization*

Reading: *Antony Anghie, "Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century Law," *Harvard International Law Journal* 40 (1999): 1-80. {heinonline}

Moon-Ho Jung, "Outlawing 'Coolies': Race, Nation, and Empire in the Age of Emancipation," *American Quarterly* 57.3 (September 2005) {muse}
<http://muse.jhu.edu/journals/american_quarterly/v057/57.3jung.pdf>

Miers, Suzanne. "Slavery to Freedom in Sub-Saharan Africa: Expectations and Realities." In *After Slavery: Emancipation and Its Discontents*, edited by Howard Temperley, 237-64. London; Portland: Frank Cass, 2007.

(6b) *Civilizing States: Humanitarian Law*

Reading: *Finnemore, Martha "Rules of War and Wars of Rules: The International Red Cross and the Restraint of State Violence," in *Constructing World Culture: International Nongovernmental Organizations since 1875*, ed. John Bolli and George M. Thomas (Stanford, CA: Stanford University Press, 1999), 149-65. {chalk}

Herren, Madeleine "Governmental Internationalism and the Beginning of a New World Order in the Late Nineteenth Century," in *The Mechanics of Internationalism: Culture, Society, and Politics from the 1840s to the First World War*, ed. Martin H. Geyer and Johannes Paulmann (Oxford: Oxford University Press, 2001). {chalk}

(7a) *Races, Minorities, Mandates, and Refugees*

Reading: *Mazower, Mark. "The Strange Triumph of Human Rights, 1933-1950." *Historical Journal* 47, no. 2 (2004): 379-98.

Mazower, Mark. "Minorities and the League of Nations in Interwar Europe." *Daedalus* 126, no. 2 (1997): 47-63.

Manela, Erez. "Dawn of a New Era: The 'Wilsonian Moment' in Colonial Contexts and the Transformation of World Order, 1917-1920." In *Competing Visions of World Order: Global Moments and Movements, 1880s-1930s*, edited by Sebastian Conrad and Dominic Sachsenmaier, 121-49. New York: Palgrave Macmillan, 2007. {chalk}

SECTION IV - International Human Rights

Textbook: Lauren, Paul Gordon. *The Evolution of International Human Rights*. Philadelphia: University of Pennsylvania Press, 1998.

(7b) *The Decline of the Nation State and the End of Human Rights*

Reading: *Arendt, Hannah. *The Origins of Totalitarianism*. new ed. New York: Harcourt, Brace, and World, 1966, chapter 9.

Weitz, Eric D. "From the Vienna to the Paris System: International Politics and the Entangled Histories of Human Rights, Forced Deportations, and Civilizing Missions." *American Historical Review* 113, no. 5 (2008): 1313-43.

(8a) *The United Nations System*

Reading: *Mazower, Mark. *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations*. Princeton: Princeton University Press, 2009.

Atlantic Charter

<<http://avalon.law.yale.edu/wwii/atlantic.asp>>

Charter of the International Military

Tribunal <<http://avalon.law.yale.edu/imt/imtconst.asp>>

*UN Charter.

<<http://www.un.org/aboutun/charter>>

*Universal Declaration of Human Rights

<<http://www.un.org/Overview/rights.html>>

Convention on the Punishment and Prevention of Genocide

<<http://www.un.org/millennium/law/iv-1.htm>>

(8b) *Containing War*

Reading: *Bass, Gary Jonathan. *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. Princeton; Oxford: Princeton University Press, 2000.

Moyn, Samuel. "Spectacular Wrongs: Gary Bass's 'Freedom's Battle,'" *The Nation*. 24 September 2008.

<<http://www.thenation.com/doc/20081013/moyn>>

(9a) *Containing Revolution*

Reading: *Declaration on the Granting of Independence to Colonial Countries and Peoples (1960)

<http://www.unhchr.ch/html/menu3/b/c_coloni.htm>

*International Convention on the Elimination of All Forms of Racial Discrimination (1965)

<http://www.unhchr.ch/html/menu3/b/d_icerd.htm>

*International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)

<<http://www.unhchr.ch/html/menu3/b/11.htm>>

Westad, Odd Arne. *The Global Cold War: Third World Interventions and the Making of the Contemporary World*. Cambridge, UK: Cambridge University Press, 2006, chapters 1-5

(9b) *The Strange Rise of Human Rights and the Collapse of the Cold War*

Reading: *Kenneth Cmiel, "The Emergence of Human Rights Politics in the United States," *Journal of American History* 86.3 (December 1999): 1231-1250. {historycooperative}
<<http://www.historycooperative.org/journals/jah/86.3/cmiele.html>>

Moyn, Samuel. "On the Genealogy of Morals." *The Nation*, 16 April 2007, 25-31.

Michael Ignatieff, "Human Rights as Idolatry," in *Human Rights as Politics and Idolatry* (Princeton: Princeton University Press, 2001). {chalk}

(10a) *The Human Rights Conundrum: Where do we go from here?*

Reading: *Gould, Carol C. *Globalizing Democracy and Human Rights*. Cambridge, U.K.; New York: Cambridge University Press, 2004.

Vienna Declaration and Programme of Action (1993)
<http://www.yale.edu/lawweb/avalon/diana/undocs/33198-10.html>