

MALS 4730: Human Rights Here and Abroad

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When Americans think of "human rights," they tend to think first of their "constitutional rights," and in particular of the Bill of Rights, the first ten amendments to the U.S. Constitution. Most of the rest of the world, however, looks instead to authoritative international documents such as the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948. Where do these characteristic American and international approaches converge, and where do they diverge? How do American standards and practices measure up to international human rights norms? Should Americans be concerned about their divergences and shortcomings? And how should Americans respond to those abroad who claim radically different understandings of human rights? This course is structured around these questions.

Our principal perspective will be international, not American. Rather than take American norms as given, obviously correct, even "natural," the course proceeds from the assumption that characteristic American practices require more than a historical justification. In fact, international human rights standards challenge some deeply entrenched American self-understandings and practices. Whether one ultimately defends or criticizes the American approach, an international interrogation of American political values should result in a deeper appreciation of the role of basic individual rights in American politics.

The course will be taught entirely in a free form discussion format. I will never lecture -- although you can be assured that I will have plenty to say in the course of our discussions! Typically, I will begin class by asking "Where do you want to start tonight?" and then let the discussion flow from there (with a greater or lesser degree of channeling and redirection). For the class to work, it is essential that you have not only read but thought about the readings for that week. You will be required to shoulder the burden of an active role in the direction that the course unfolds. In return, though, you are assured that if there is an issue that interests, excites, or bothers you, we will be able to devote considerable time and attention to it.

Roughly two thirds of your grade will be based on written work and one-third on participation in weekly discussions.

Your class participation grade will be based primarily on quality, not quantity (although some contribution each week is expected of every student). And I will be much more concerned with the depth and seriousness of your engagement with the issues than with the substance, or even soundness, of the views you enunciate in class. In-class discussion is a time to learn, from mistakes no less than insights, and from formulating problems and puzzles as much as from arriving at "good answers."

For written work, you will have a choice of two 8-10 page papers on separate issues or one more substantial paper (roughly twenty pages) on a single issue, due at the end of the term. More details will be provided at the first class. Most students, however, should exercise the two short papers option.

Week 1: The Idea of Human Rights

Jack Donnelly, Universal Human Rights in Theory and Practice (2nd edition), chapters 1, 2.

Henry Shue, Basic Rights, pp. 13-22, 29-40, 51-64.

Joel Feinberg, "The Nature and Value of Rights," in Patrick Hayden, The Philosophy of Human Rights.

Universal Declaration of Human Rights (<http://www.unhchr.ch/udhr/lang/eng.htm>)

Constitution of the United States
(http://www.archives.gov/exhibit_hall/charters_of_freedom/constitution/constitution_transcription.html)

Bill of Rights (Amendments 1-10 of the Constitution)
(http://www.archives.gov/exhibit_hall/charters_of_freedom/bill_of_rights/amendments_1-10.html)

Recommended:

Jack Donnelly and Rhoda E. Howard, "Assessing National Human Rights Performance: A Theoretical Framework," Human Rights Quarterly 10 (May 1988): 214-48.

James Nickel, Making Sense of Human Rights, ch. 2, 3, 5
(<http://www.law.asu.edu/HomePages/Nickel/msohr%20welcome.htm>)

Ronald Dworkin, "Taking Rights Seriously," in Taking Rights Seriously.

Steven Lukes, "Five Fables about Human Rights," in Stephen Shute and Susan Hurley (eds.), On Human Rights: The Oxford Amnesty Lectures, reprinted in Hayden.

Martha Nussbaum, "Capabilities and Human Rights," in Patrick Hayden (ed.), The Philosophy of Human Rights.

Peter Jones, Rights.

Thomas Pogge, "How Should Human Rights Be Conceived?" in Hayden.

Jerome J. Shestack, "The Philosophical Foundations of Human Rights," Human Rights Quarterly 20 (May 1998): 200-234.

R. J. Vincent, "The Idea of Rights in International Ethics," in Terry Nardin and David R. Mapel (eds.), Traditions of International Ethics.

Week 2: Liberalism, Cultural Relativism, and Overlapping Consensus

Ronald Dworkin, "Liberalism," in A Matter of Principle.

Donnelly, chapter 3.

Adamantia Pollis and Peter Schwab, "Human Rights: A Western Construct with Limited Applicability," in Pollis and Schwab, Human Rights: Cultural and Ideological Perspectives.

Donnelly, chapters 4-6.

Recommended:

Ann-Belinda S. Preis, "Human Rights as Cultural Practice: An Anthropological Critique," Human Rights Quarterly 18 (May 1996): 286-315.

Rhoda E. Howard. "Cultural Absolutism and the Nostalgia for Community," Human Rights Quarterly 15 (May 1993): 315-338.

Andrew J. Nathan, "Universalism: A Particularistic Account," in Lynda Bell, Andrew J. Nathan, and Ilan Peleg, Negotiating Culture and Human Rights.

John Rawls, The Law of Peoples.

Anthony J. Langlois, The Politics of Justice and Human Rights, ch. 4.

Cass R. Sunstein, Legal Reasoning and Political Conflict.

Jurgen Habermas, "Remarks on Legitimation through Human Rights," Philosophy and Social Criticism 24 (1998): 157-171.

Abdullahi A. An Na'im, "Towards a Cross-Cultural Approach to Defining International Human Rights Standards," in An Na'im, Human Rights in Cross-Cultural Perspectives.

Onuma Yasuaki, "Toward an Intercivilizational Approach to Human Rights," in Joanne Bauer and Daniel Bell, The East Asian Challenge for Human Rights.

Charles Taylor, "Conditions of an Unforced Consensus on Human Rights," in Bauer and Bell.

Adbul Aziz Said, "Human Rights in Islamic Perspectives," in Pollis and Schwab OR "Precept and Practice of Human Rights in Islam," Universal Human Rights [Human Rights Quarterly] 1 (1979): 63-80.

Majid Khadduri, "Human Rights in Islam," The Annals 243 (January 1946): 77-81.

Dunstan M. Wai, "Human Rights in Sub-Saharan Africa," in Pollis and Schwab.

Josiah A. M. Cobbah, "African Values and the Human Rights Debate: An African Perspective." Human Rights Quarterly 9 (August 1987).

Timothy Fernyhough, "Human Rights and Precolonial Africa," in Ronald Cohen, Goran Hyden, and Winston P. Nagan, Human Rights and Governance in Africa.

Legesse, Asmarom (1980). "Human Rights in African Political Culture," in Kenneth W. Thompson, The Moral Imperatives of Human Rights: A World Survey.

Yougindra Khushalani, "Human Rights in Asia and Africa," Human Rights Law Journal 4 (no. 4 1983): 403-442.

Ralph Buultjens, "Human Rights in Indian Political Culture," in Thompson.

Alison Dundes Renteln, "The Unanswered Challenge of Relativism and the Consequences for Human Rights," Human Rights Quarterly 7 (November 1985): 514-40.

Week 3: The Asian Values Debate

Zakaria, Fareed. 1994. "Culture is Destiny: A Conversation with Lee Kuan Yew." Foreign Affairs 73 (March/April): 109-126.

Chandra Muzaffar, "From Human Rights to Human Dignity," in Peter Van Ness, Debating Human Rights.

Bilahari Kausikan. "Asia's Different Standard." Foreign Policy Fall 1993, pp. 24-41.

Aryeh Neier, "Asia's Unacceptable Standard." Foreign Policy Fall 1993, pp. 42-51.

Kishore Mahbubani, "An Asian Perspective on Human Rights and Freedom of the Press," in Van Ness.

Christopher Lingle, "The Propoganda Way," Foreign Affairs May-June 1995, pp. 193-196.

John F. Cooper, "Peking's Post-Tienanmen Foreign Policy: The Human Rights Factor," Issues and Studies, October 1994, pp. 49-73.

Charles Taylor, "Conditions of an Unforced Consensus on Human Rights," in Joanne Bauer and Daniel Bell, The East Asian Challenge for Human Rights.

Recommended:

Anthony Langlois, The Politics of Justice and Human Rights.

Marina Svensson, Debating Human Rights in China.

Shashi Tharoor, "Are Human Rights Universal?" World Policy Journal Winter 1999/2000, pp. 1-6.

Yash Ghai, "Rights, Social Justice, and Globalization in East Asia," in Bauer and Bell.

Hsiung, James C. "Human Rights in an East Asian Perspective." In Hsiung (ed.), Human Rights in an East Asian Perspective. New York: Paragon House Publishers, 1985.

Ann Kent, "Waiting for Rights: China's Human Rights and China's Constitutions, 1949-1989," Human Rights Quarterly 1991, pp. 170-201.

Aryeh Neier, "The New Double Standard," Foreign Policy Winter 1996/7, pp. 91-106.

Week 4: The Welfare State in Comparative Perspective

Cass R. Sunstein, "Why Does the American Constitution Lack Social and Economic Guarantees?"
(<http://www.law.uchicago.edu/academics/publiclaw/resources/36.crs.constitution.pdf>)

Robert Goodin, Bruce Headey, Ruud Muffels, and Henk-Jan Dirven, The Real Worlds of Welfare Capitalism.

Recommended:

Ran Hirsch, "'Negative' Rights vs. 'Positive' Entitlements: A Comparative Study of Judicial Interpretation of Rights in an Emerging Neo-Liberal Economic Order," Human Rights Quarterly 22 (2000): 1060-1098.

Week 5: The Limits of Human Rights

Alison Brysk, Human Rights, Private Wrongs