

INTS 4940

Jack Donnelly

Introduction to Human Rights

Fall 2005

This course provides a theoretical and historical introduction to human rights, on the premise that a sound understanding of contemporary practice and debates requires grounding in their historical and theoretical roots and foundations. 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 today?" 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.

I have ordered five books that are available for purchase in the Bookstore. Jack Donnelly, Universal Human Rights in Theory and Practice (2nd edition) [abbreviated UHR2e below]; Micheline Ishay The History of Human Rights; Patrick Hayden (ed.), The Philosophy of Human Rights; Marina Svensson, Debating Human Rights in China; and Alison Brysk, Human Rights and Private Wrongs. Much additional reading is available on reserve (whenever possible, electronic reserve). (If you are short of book money, you will get the most immediate use out of the Donnelly and Ishay volumes. Hayden is a superb collection that belongs on any human rights bookshelf, but we won't use all that much of it directly in the course. The Svensson and Brysk volumes are very good, but used for only a single class each; you might want to save some money by Xeroxing the library copy.)

Grades will be based on either a) a final paper of approximately 25-30 pages, on a topic of your choice or b) three shorter papers (5, 10, and 15 pages) on assigned topics due the fourth, eighth, and eleventh weeks of the quarter. Participation in class (quality not quantity) will be taken into account when determining whether or not to round up on the final grade, and, in exceptional circumstances, may even raise (but not lower) the final grade by a "+".

Readings by class follow. Do not attempt to do more than the required reading. Recommended reading is listed largely for future reference. In general, it is preferable to do the reading in the order listed in the syllabus; many weeks that will make your life substantially easier.

September 15: Introduction

The English Bill of Rights
Declaration of Independence of the United States of America
The Bill of Rights of the United States of America
French Declaration of the Rights of Man and of the Citizen
Universal Declaration of Human Rights

Vienna Declaration and Programme of Action

September 22: Rights and Human Rights

Jack Donnelly, UHR2e, ch. 1, 2..

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

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

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

Martha Nussbaum, "Capabilities and Human Rights," in Hayden.

Steven Lukes, "Five Fables about Human Rights," in Hayden.

Micheline Ishay, The History of Human Rights, ch. 1.

Recommended:

Wesley Newcomb Hohfeld, "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning," Yale Law Journal 23 (November 1913): 16-59.

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

Peter Jones, Rights.

Brian Orend, Human Rights: Concept and Context, ch. 1-6.

Tara Smith, Moral Rights and Political Freedom, ch. 1-5.

Stanley I. Benn, "Rights," The Encyclopedia of Philosophy (1967).

Thomas Pogge, "How Should Human Rights Be Conceived?" Patrick Hayden (ed.), The Philosophy of Human Rights.

Michael Freeman, "The Philosophical Foundations of Rights," Human Rights Quarterly 16 (August 1994): 491-514.

H. L. A. Hart, "Are There Any Natural Rights?," in Hayden.

Alan Gewirth, "The Basis and Content of Human Rights," in Gewirth, Human Rights: Essays on Justification and Application.

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

Maurice Cranston, What are Human Rights?.

R. J. Vincent, Human Rights and International Relations, ch. 1.

Michael J. Perry, The Idea of Human Rights: Four Inquiries, ch. 2.

Christian Bay, "Self-respect as a Human Right: Thoughts on the Dialectics of Wants and Needs in the Struggle for Human Community," Human Rights Quarterly 4 (February 1982): 53-75.

Hugo Adam Bedau, "Human Rights and Foreign Assistance Programs," in Peter G. Brown and Douglas Maclean, Human Rights and U.S. Foreign Policy.

Morton E. Winston (ed.), The Philosophy of Human Rights

September 29: Human Rights and Western Liberalism

Ishay, History of Human Rights, ch. 2.

Donnelly, UHR2e, ch. 1-3.

John Locke, Second Treatise of Government, ¶¶1-51, 54, 57-59, 61, 63, 77, 85-90, 95, 98, 99, 102, 104, 105, 107, 108, 111, 116, 119-131, 134, 135, 138, 142, 143, 149-151, 155, 158, 173-174, 186, 190, 194-196, 199, 200 (last sentence after long quote), 202 (first sentence), 204, 220-222, 228-230, 240-243.

(<http://bianca.penlib.du.edu/search/cJC153+.L823/cjc++153+l823/-5,-1,,E/browse>JC153 .L823> or

<http://religionanddemocracy.lib.virginia.edu/library/tocs/LocTre2.html>)

October 6: Socialism and Economic and Social Rights

Ishay, History of Human Rights, ch. 3.

Donnelly, UHR2e, pp. 27-33.

Johannes Morsink, The Universal Declaration of Human Rights: Origins, Drafting and Intent, ch. 5, 6.

Donnelly, UHR2e, ch. 11.

October 13: Self-Determination and Group Rights

Ishay, History of Human Rights, ch. 4.

Donnelly, UHR2e, ch. 12.

Morsink, ch. 3.

William F. Felice, "The Case for Collective Human Rights: The Reality of Group Suffering," Ethics and International Affairs 10 (1996): 47-61.

James Crawford, "The Rights of Peoples: 'Peoples' or 'Governments'," in Patrick Hayden (ed.), The Philosophy of Human Rights.

Will Kymlicka, "The Good, the Bad and the Intolerable: Minority Group Rights," in Patrick Hayden (ed.), The Philosophy of Human Rights.

Hurst Hannum, "Indigenous Peoples," in Gene Lyons and James Mayall, International Human Rights in the 21st Century.

Jennifer Jackson-Preece, "Human Rights and Cultural Pluralism," in Lyons and Mayall.

Declaration on the Rights of Persons Belonging to National, Ethnic, Religious or Linguistic Minorities

Draft Declaration on the Rights of Indigenous Peoples

October 20: Cultural Relativism

The literature on human rights and cultural relativism is immense. I am well aware that there is too much reading for this week, but É

A. Required Reading

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

* Adamantia Pollis, "Liberal, Socialist, and Third World Perspectives on Human Rights," in Peter Schwab and Adamantia Pollis, eds., Toward a Human Rights Framework

* Read any three articles from €B.

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

* UHR2e, ch. 3, 5, 6.

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

* 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.

B. Non-Western Conceptions of Human Rights

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.

Fouad Zakaria, "Human Rights in the Arab World: The Islamic Context," in UNESCO, Philosophical Foundations of Human Rights.

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.

Kwasi Wiredu, "An Akan Perspective on Human Rights," in Hayden.

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 Bultjens, "Human Rights in Indian Political Culture," in Thompson.

Surya P. Subedi, "Are the Principles of Human Rights 'Western' Ideas? An Analysis of the 'Asian' Concept of Human Rights from the Perspectives of Hinduism," California Western International Law Journal 30 (Fall 1999): 45-69.

James C. Hsiung, "Human Rights in an East Asian Perspective," in Hsiung, Human Rights in an East Asian Perspective.

Lo Chung-Sho, "Human Rights in the Chinese Tradition," in UNESCO, Human Rights: Comments and Interpretations.

Roger Ames, "Continuing the Conversation on Chinese Human Rights," Ethics and International Affairs 11 (1997): 177-205.

C. Recommended Reading

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

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

Hector Gros Espiell, "The Evolving Concept of Human Rights: Western, Socialist and Third World Approaches," in B. G. Ramcharan, Human Rights: Thirty Years After the Universal Declaration.

Bassem Tibi, "Islamic Law/Shari'a, Human Rights, Universal Morality of International Relations," Human Rights Quarterly 16 (May 1994): 277-299.

Ann Elizabeth Mayer, Islam and Human Rights: Tradition and Politics.

Abdullahi A. An-Na'im, "Religious Minorities under Islamic Law and the Limits of Cultural Relativism," Human Rights Quarterly 9 (February 1987): 1-18.

R. Afshari, "An Essay on Islamic Cultural Relativism in the Discourse of Human Rights," Human Rights Quarterly 16 (May 1994): 235-276.

Matthew A. Ritter, "Human Rights: The Universalist Controversy. A Response to Are the Principles of Human Rights 'Western' Ideas?" California Western International Law Journal 30 (Fall 1999): 71-90.

Kana Mitra, "Human Rights in Hinduism," Journal of Ecumenical Studies 19 (Summer 1982): 77-84.

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

Abdullahi A. An-Na'im, "The Cultural Mediation of Human Rights: The Al-Arqam Case in Malaysia," in Bauer and Bell.

Michael G. Barnhart, "Getting Beyond Cross-Talk: Why Persisting Disagreements Are Philosophically Nonfatal," in Bell, Nathan, and Peleg.

Bhikhu Parekh, "Non-ethnocentric Universalism," in Tim Dunne and Nicholas J. Wheeler, Human Rights in Global Politics.

Norani Othman, "Grounding Human Rights Arguments in Non-Western Culture: Shari'a and the Citizenship Rights of Women in a Modern Islamic State," in Bauer and Bell.

Diane Orentlicher, "Relativism and Religion," in Michael Ignatieff (ed. Amy Gutmann), Human Rights as Politics and Idolatry.

James Nickel, Making Sense of Human Rights (<<http://spot.colorado.edu/~nickelj/msohr-welcome.htm>><http://spot.colorado.edu/~nickelj/msohr-welcome.htm>), ch. 4.

Michael J. Perry, The Idea of Human Rights: Four Inquiries, ch. 3.

Thomas M. Franck, "Are Human Rights Universal?" Foreign Affairs 80 (January-February 2001).

October 27: Debating Human Rights in China

Marina Svensson, Debating Human Rights in China, ch. 4-7, 9-12.

November 3: Human Rights and Private Wrongs

Alison Brysk, Human Rights and Private Wrongs: Constructing Global Civil Society.

November 10: Challenges to Human Rights

Chris Brown, "Universal Human Rights: A Critique," in Tim Dunne and Nicholas J. Wheeler, Human Rights in Global Politics.

Richard Rorty, "Human Rights, Rationality, and Sentimentality," in Hayden.

Micheline Ishay, History of Human Rights, ch. 5.

Makau Mutua, "The Ideology of Human Rights," Virginia Journal of International Law 36 (Spring 1996): 589-657.

Anthony J. Langlois, The Politics of Justice and Human Rights, ch. 5

Anthony Woodiwiss, "Human Rights and the Challenge of Cosmopolitanism," Theory, Culture & Society 19 (2002): 139-155.

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

John A. Gentry, "The Cancer of Human Rights," Washington Quarterly 22 (Autumn 1999).

Makau Mutua, "Savages, Victims, and Saviors: The Metaphor of Human Rights," Harvard International Law Journal 42 (Winter 2001): 201-245.

Recommended:

Costas Douzinas, The End of Human Rights.

Michael Ignatieff, Human Rights as Politics and Idolatry.

C. B. Macpherson, The Political Theory of Possessive Individualism.

Mary Ann Glendon, Rights Talk: The Impoverishment of Political Discourse.

Ian Shapiro, The Evolution of Rights in Liberal Theory.

Arthur J. Dyck, Rethinking Rights and Responsibilities: The Moral Bonds of Community.

Henry B. Veatch, Human Rights: Fact or Fancy?

Tibor R. Machan, Individuals and their Rights.

November 17: The Dark Sides of Virtue

David Kennedy, The Dark Sides of Virtue: Reassessing International Humanitarianism, ch. 1-4, 8, 9.