

PY 4652

THE PHILOSOPHY OF HUMAN RIGHTS

Course Organiser: **Dr Elizabeth Ashford (ea10)**

Office Hour: Tuesdays **5pm-6pm**, or by appointment.

Co-Lecturer: **Dr Adam Etnson (ae45)**

Office Hour: Thursdays **2pm-3pm**

Lecture: Tuesday 3 – 5pm, Edgecliffe G03

Seminars: Thursday 12 – 1pm, 1 – 2pm, Edgecliffe G01

Description:

The course explores cutting-edge research on the history, nature, content, and justification of human rights. We begin by examining the origins of human rights, and current debates about how this bears on the way in which we should conceive of human rights. We then explore methodological issues in theorizing about human rights, and turn to core contemporary debates in the philosophy of human rights, concerning orthodox and political conceptions of human rights; the relationship between their status as moral and legal norms; the significance of the fact that human rights are *rights*; and the nature of human dignity, to which the major human rights declarations appeal. We also examine critical perspectives on the human rights movement.

Learning Outcomes:

By the end of the module, students should have gained a good critical understanding of core debates in the philosophy of human rights. Students will be able to analyse and critically evaluate arguments on a range of approaches that have been taken in moral theorizing about human rights, and to articulate and offer a well-reasoned defence of their own views on them. To these ends, the requirements of the module are: Attendance at all classes; a careful reading of the assigned readings, allowing time to

critically reflect on the arguments; preparation for both lectures and seminars; participation in seminar discussions; and completion of all formal assessment.

Assessment: Continuous assessment = 100%;

- (1) **One “Timely” Intervention**, of a maximum of 1,000 words (20%)
 - Due: Monday of **Week 7 - March 8th**
 - Aim: The goal of this assignment is to use one (or a maximum of two) readings from anywhere on the course syllabus to cast light on some political event, trend, or piece of news of the day.
 - Task: (i) Explain the basic argument or thesis put forward in the reading(s) in question; (ii) show how this argument helps us understand, or bears on, some important political issue or news of the day; (iii) outline further questions or concerns raised by the reading(s) and/or the political news you discuss.
 - Example: This is an experimental task, so there is no single formula to follow here. But as a template, think of the genre of the “op-ed” – in which an author brings some piece of research or argument to bear on some problem of the day. The instructors will highlight some examples of relevant op-eds as potential sources of inspiration.

- (2) **One Tutorial Presentation**, of 15-20 minutes in length (**ungraded**)
 - Due: One whatever week we settle on, in the seminar group.
 - Aim: Tutorial presentations should guide us through one of the required readings for the week (those required readings that are suitable for presentation are marked with an “*”). The presentations should provide an overview of the text and alert us to problems and possible answers that may not be immediately obvious. The presentation may be accompanied by a handout (of a maximum of two pages). Presenters will be responsible for raising 2-3 questions for general discussion, and should be able to answer some questions from their peers after the presentation.
 - Note: In tutorial sessions in general, *all* students will be expected to come to class prepared with questions: not just that week’s presenter(s).

- (3) **One Essay Outline**, of a maximum of 500 words (**ungraded**)
 - Due: Monday of **Week 10 – April 12th**.

- Task: Write a brief outline of your plan for the final essay. Try to describe the main questions, arguments, issues, and authors you intend to discuss – as well as your own general line of argument. The instructor will provide feedback on the outline by Monday of Week 12 – April 29th.
- Note: Students will not be graded on this outline. But failure to submit an outline will result in 2 penalty marks off the final essay.

(4) **One Final Essay**, of a maximum of 3,500 words (80%)

- Due: Monday of **Week 14 – May 10th**
- Aim: The final essay is an opportunity for the student to tackle a key question, debate, or set of issues covered in the syllabus. Generally, students may find it useful to write an essay on one of the eleven topics discussed in the module. If you write on one of these topics, it is advised that you consult not just the required but also the supplementary readings associated with the topic in question. Students are also free to connect readings on different topics, from different weeks, together.
- Essay Questions: The instructor will provide students with some sample essay questions by Monday of Week 9 – April 5th.
- Criteria: See undergraduate student handbook. Generally, research papers will be assessed on the basis of (i) lucidity, (ii) effort, (iii) relevance to the chosen question, (iv) independence of thought, (v) argumentative charity; and (vi) comprehension of the relevant readings.

Seminar aims:

The purpose of seminars is to provide an opportunity for you to raise questions you have about the lectures and readings in order to make sure you have understood them, and to discuss the arguments. Studying philosophy is principally about learning to philosophise: to critically analyse arguments, and offer a reasoned defence of your own views on the topics under discussion. It is in the seminars that you will actually be *doing philosophy*. The more willing you are to try out ideas, the faster you will learn. To benefit properly from seminars it is essential that you have done the reading in advance, so that you are in a position to raise questions over what you have found puzzling (remember that in philosophy, finding arguments puzzling is a sign that you are thinking deeply about them!), and to participate fully in the discussion. (On the other hand while participation is important, try not to dominate discussion, so as to allow a real dialogue.) Please bring

your notes from the reading, together with questions about the readings and lectures. We may call on students at random to ask a question they came prepared with. Students will take it in turns to give short (10-15 minute max) presentations in the seminars. What is important is to do the readings in advance and to start thinking about the arguments, and what you find puzzling about them and what you find plausible or implausible.

Content and structure:

Useful background texts:

James W. Nickel, *Making Sense of Human Rights: Second Edition* (Oxford: Blackwell Publishing, 2007).

Philosophical Foundations of Human Rights (Oxford: Oxford University Press, 2015), eds. S.M. Liao, M. Renzo, & R. Cruft.

Human Rights: Moral or Political? (Oxford: Oxford University Press, 2018), ed. Adam Etinson.

John Tasioulas and Samantha Besson, eds. *The Philosophy of International Law* (Oxford: Oxford University Press, 2010).

Lecture topics and readings:

1. 1948: The Universal Declaration

- *The Universal Declaration of Human Rights* (1948) – Available online.
- Eleanor Roosevelt, “The Promise of Human Rights” in *Foreign Affairs* (1947), Vol. 26, No. 3, pp. 470-477.
- James W. Nickel, “The Contemporary Idea of Human Rights” in *Making Sense of Human Rights: Second Edition* (Oxford: Blackwell, 2007), Ch. 1, pp. 7-21.
- Samuel Moyn, “Human Rights in History” & “The Intersection with Holocaust Memory” in *Human Rights and the Uses of History* (London: Verso Books, 2014), Chs. 5 & 6, pp. 69-87, 87-99.

Further reading:

- Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal*

Declaration of Human Rights (New York: Random House, 2001), Chs. 1-4, & 10, pp. 3-72, 173-192.

- Philip Alston and Ryan Goodman, “Birth of the Regime: the UN Charter and the UDHR”, in *International Human Rights* (Oxford: Oxford University Press, 2013), Ch. 2.E, pp. 139-156.
- Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, Intent* (Philadelphia: University of Pennsylvania Press, 1999), Ch. 1, pp. 1-35.

2. Human Rights and The Slave Trade

- Jenny S. Martinez, “Antislavery Courts and the Dawn of International Human Rights Law” in *Yale Law Journal* (2008), Vol. 117, No. 4, pp. 552-579, 629-641.
- Philip Alston, “Does the Past Matter? On the Origins of Human Rights” in *Harvard Law Review* (2013), Vol. 126, No. 7, pp. 2043-2081.

Further Reading:

- Jenny S. Martinez, “Human Rights and History” in *Harvard Law Review* (2013), Vol. 126, No. 7, pp. 221-240.
- Jenny S. Martinez, *The Slave Trade and the Origins of Human Rights Law* (Oxford: Oxford University Press, 2012).

3. Early Concerns

- W.E.B. Du Bois, “An Appeal to The World” (New York: National Association for the Advancement of Colored People, 1947), pp. 1-14.
- The Executive Board, American Anthropological Association, “Statement on Human Rights” in *American Anthropologist* (1947), Vol. 49, No. 4, pp. 539-543.
- Hannah Arendt, “The Decline of The Nation-State and The End of The Rights of Man” in *The Origins of Totalitarianism* (New York: Penguin, 1951), Ch. 9, pp. 267-302.

Further Reading:

- Jacques Maritain, “Introduction” and “On the Philosophy of Human Rights” in *Human Rights: Comments and Interpretations* (New York: Columbia University Press, 1949), pp. 9-17, 72-77.
- American Anthropological Association, “Declaration on Anthropology and Human Rights” (1999) – Available online.
- Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal*

Declaration of Human Rights (New York: Random House, 2001), Ch. 12, pp. 221-234.

- Melville Herskovitz, “Cultural Relativism and Cultural Values” in *Taking Sides: Clashing Views on Controversial Moral Issues* (Guilford: MacGraw-Hill/Dushkin, 2004), ed. S. Satris, pp. 2-12.
- Seyla Benhabib, *The Rights of Others* (Cambridge: Cambridge University Press, 2004), Ch. 2, pp. 49-69.
- Mark Goodale, *Letters to the Contrary: A Curated History of the UNESCO Human Rights Survey* (Stanford: Stanford University Press, 2018).

4. Early Philosophical Responses

- Thomas Scanlon, “Human Rights as a Neutral Concern” (1979) in *The Difficulty of Tolerance: Essays in Political Philosophy* (Oxford: Oxford University Press, 2001), Ch. 6, pp. 113-123.
- Maurice Cranston, “Are There Any Human Rights?” in *Daedalus* (1983), Vo. 112, No. 4, pp. 1-17.
- Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton: Princeton University Press, 1996 [Second Edition]), Chs. 1-2, pp. 13-65, esp. Ch. 2, pp. 35-65.

Further Reading:

- Alan Gewirth, “Why There Are Human Rights” in *Social Theory and Practice* (1985), Vol. 11, No. 2, pp. 235-248.

5. The Grounds of Human Rights: Monism vs. Pluralism

- James Griffin, “First Steps in an Account of Human Rights” in *European Journal of Philosophy* (2001), Vol. 9, No. 3, pp. 306-327.
- John Tasioulas, “Human Rights, Universality, and the Values of Personhood” in *European Journal of Philosophy* (2002), Vol. 10, No. 1, pp. 79-100.

Further reading:

- James Griffin, *On Human Rights* (Oxford: Oxford University Press, 2008), Chs. 1-2, pp. 1-56.
- James W. Nickel, *Making Sense of Human Rights* (Oxford: Blackwell, 2007), Chs. 3-5.

- Amartya Sen, “Elements of a Theory of Human Rights” in *Philosophy and Public Affairs* (2004), Vol. 32, No. 4, pp. 315-356.

6. The Orthodox-Political Debate

- Joseph Raz, “Human Rights Without Foundations” in *The Philosophy of International Law* (Oxford: Oxford University Press, 2010), eds. John Tasioulas and Samantha Besson, pp. 321-339.
- John Tasioulas, “Towards a Philosophy of Human Rights” in *Current Legal Problems* (2012), Vol. 65, No. 1, pp. 1-30.

Further Reading:

- Charles Beitz, *The Idea of Human Rights* (Oxford: Oxford University Press, 2009), Ch. 5.
- Jeremy Waldron, “Human Rights: A Critique of the Raz/Rawls Approach” in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, Forthcoming), ed. Adam Etinson.
- Joseph Raz, “On Waldron’s Critique of Raz on Human Rights” in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, Forthcoming), ed. Adam Etinson.
- Nickel, James W. (2006), “Are Human Rights Mainly Implemented by Intervention?” in *Rawls’ Law of Peoples: A Realistic Utopia?* (Oxford: Blackwell Publishing), eds. Rex Martin & David Reidy, pp. 263-278.

7. History and Philosophy

- Samuel Moyn, “Human Rights in Heaven” in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, 2018), ed. Adam Etinson, 69-88.
- John Tasioulas, “Philosophizing the Real World of Human Rights: A Reply to Samuel Moyn” in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, 2018), ed. Adam Etinson, 88-103.

Further Reading:

- Samuel Moyn, “Epilogue: The Future of Human Rights”, in *Human Rights and the Uses of History* (London: Verso Books, 2014).
- Jeffrey Flynn, “Genealogies of Human Rights: What’s at Stake?” in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, 2018), ed. Adam Etinson, pp. 103-17.

8. Human Dignity

- Charles Beitz, “Human Dignity in the Theory of Human Rights: Nothing but a Phrase?” in *Philosophy and Public Affairs* (2013), Vol. 41, No. 3, pp. 259-290.
- Adam Etinson, “What’s So Special About Human Dignity?” in *Philosophy and Public Affairs* (2020), Vol. 48, No. 4, pp. 353-381.

Further Reading:

- Oscar Schachter, “Human Dignity as a Normative Concept” in *The American Journal of International Law* (1983), Vol. 77, No. 4, pp. 848-854.
- Jurgen Habermas, “The Concept of Human Dignity and the Realistic Utopia of Human Rights” in *Metaphilosophy* (2010), Vol. 41, No. 4, pp. 464-480.
- Christopher McCrudden, “Human Dignity and Judicial Interpretation of Human Rights” in *European Journal of International Law* (2008), Vol. 19, No. 4, pp. 655-724.
- Jeremy Waldron, “Is Dignity the Foundation of Human Rights?” in *Philosophical Foundations of Human Rights* (Oxford: Oxford University Press, 2015), eds. S.M. Liao, M. Renzo, & R. Cruft, Ch. 5, pp. 117-138.
- John A. Simmons, “Human Rights, Natural Rights, and Human Dignity” in *Philosophical Foundations of Human Rights* (Oxford: Oxford University Press, 2015), eds. S.M. Liao, M. Renzo, & R. Cruft, Ch. 6, pp. 138-153.

9. Feasibility

- Pablo Gilabert, “The Feasibility of Basic Socioeconomic Rights: A Conceptual Exploration” in *Philosophical Quarterly* (2009), Vol. 59, No. 273, pp. 659-681.
- Kimberley Brownlee, “Dwelling in Possibility: Ideals, Aspirations, and Human Rights” in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, 2018), ed. Adam Etinson, pp. 313-27.
- Rowan Cruft, “In What Sense Should Respect for Human Rights be Attainable? A Response to Brownlee” in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, 2018), ed. Adam Etinson, pp. 327-37.

Further Reading:

- Elizabeth Ashford, “The Nature of Violations of the Human Right to Subsistence” in *Human Rights: Moral or Political?* (Oxford: Oxford University

Press, Forthcoming), ed. Adam Etnison.

- Daniel Weinstock, Remarks on Elizabeth Ashford's "The Nature of Violations of the Human Right to Subsistence" in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, Forthcoming), ed. Adam Etnison.
- James W. Nickel, "Goals and Rights: Working Together?" in *The Millennium Development Goals and Human Rights: Past, Present, and Future* (Cambridge: Cambridge University Press, 20?), eds. M. Langford, A. Sumner, & A. Ely Yamin, Ch. 2, pp. 37-48.

10. Claimability

- Onora O'Neill, "The Dark Side of Human Rights" in *International Affairs* (2005), Vol. 81, No. 2, pp. 427-439.
- Jeremy Waldron, "Duty-Bearers for Positive Rights" (Working Paper: SSRN, November 2014)

Further Reading:

- Elizabeth Ashford, 'The Duties Imposed by the Human Right to Basic Necessities' in *Freedom from Poverty as a Human Rights: Who owes What to the Very Poor?* (Oxford, 2008), ed. Thomas Pogge.
- Adam Etnison, "Human Rights, Claimability, and the Uses of Abstraction" in *Utilitas* (2013), Vol. 25, No. 4, pp. 463-486.
- James W. Nickel, "Human Rights as Rights" in *Making Sense of Human Rights: Second Edition* (Oxford: Blackwell Publishing, 2007), Ch. 2, esp. 28-33.
- John Tasioulas, "The Moral Reality of Human Rights" in *Freedom From Poverty as a Human Right: Who Owes What to the Very Poor?* (Oxford: Oxford University Press, 2007), ed. Thomas Pogge, pp. 75-101.

11. Compliance

- Eric Posner, *The Twilight of Human Rights Law* (Oxford: Oxford University Press, 2014), Chs. 3-5, 7, pp. 59-122, 137-149.
- Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge: Harvard University Press, 2009), Chs. 1 & 9, pp. 3-23, 349-380.
- Ryan Goodman & Derek Jinks, *Socializing States: Promoting Human Rights Through International Law* (Oxford: Oxford University Press, 2013), Chs. 1-4, pp. 1-80.

Further reading:

- Pablo Gilabert, “Reflections on Human Rights and Power” in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, Forthcoming), ed. Adam Etinson.