

University of St Andrews

DEPARTMENT OF PHILOSOPHY

PY 4652, The Philosophy of Human Rights (2016)

Credits: 30

Semester: 2

Description:

The course explores cutting-edge research on the nature, content, and justification of human rights. We examine the origins of human rights, and current debates about how this bears on the way in which we should conceive of human rights. We explore contemporary debates 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.

Lecturers: Elizabeth Ashford (ea10@st-andrews.ac.uk), and Adam Etnison (ae45@st-andrews.ac.uk)

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.

Teaching: One 2-hour lecture, and one 1-hour seminar per week *starting in week 2*

Lecture time: Monday 1-3, Arts Lecture Theatre

Seminars: Thursday 12-1, 1-2, 2-3 (all in Edgecliffe G01). Sign up to a group via the MMS system.

Office Hours: Elizabeth Ashford, Friday 11-2; Adam Etnison

Assessment: Continuous assessment = 100%: Participation = 10%; argument reconstruction and analysis exercise (2500 words) = 30%, **due Monday 24th Oct** (week 7); final essay (4500 words) = 60%, **due Monday 5th Dec** (week 13).

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 (5-10 minute max) presentations in the seminars. The class participation component of the course is a measure of critical *engagement* in class discussion; 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:

Class 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.

Other useful background texts:

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

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

Lecture topics and readings:

The following is a provisional list of lecture topics and readings. Some topics will take more than one lecture.

1. History:

- James W. Nickel, “The Contemporary Idea of Human Rights”, in, *Making Sense of Human Rights: Second Edition* (Oxford: Blackwell Publishing, 2007), Ch. 1, pp. 7-21.
- 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.
- 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:

- Philip Alston, “Does the Past Matter? On the Origins of Human Rights” in *Harvard Law Review* (2013), Vol. 126, No. 7, pp. 2043-2081.
- Jenny S. Martinez, “Human Rights and History” in *Harvard Law Review* (2013), Vol. 126, No. 7, pp. 221-240.
- *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.

2. The Nature and Grounds of Human Rights:

- James W. Nickel, *Making Sense of Human Rights* (Oxford: Blackwell, 2007), Chs. 3-5.
- 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:

- Simon Caney, *Justice Beyond Borders* (Oxford: Oxford University Press 2005), Ch. 2, pp. 25-62,
- James Griffin, *On Human Rights* (Oxford: Oxford University Press, 2008), Chs. 1-2, pp. 1-56.
- Amartya Sen, “Elements of a Theory of Human Rights” in *Philosophy and Public Affairs* (2004), Vol. 32, No. 4, pp. 315-356.

3. The Orthodox-Political Debate:

- John Rawls, *The Law of Peoples* (Cambridge: Harvard University Press, 1999), esp. pp. 59-88.
- 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.

- 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.
- John Tasioulas, "Are Human Rights Essentially Triggers for Intervention?" in *Philosophy Compass* (2009), Vol. 4, No. 6, pp. 938-950.

Further Reading:

- 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.
- James Griffin, "Human Rights and the Autonomy of International Law" in *The Philosophy of International Law* (Oxford: Oxford University Press, 2010), eds. John Tasioulas and Samantha Besson, pp. 339-357.
- Charles Beitz, *The Idea of Human Rights* (Oxford: Oxford University Press, 2009), Ch. 5.

4. Methodological Issues I: History and Philosophy

- John Tasioulas, "Towards a Philosophy of Human Rights" in *Current Legal Problems* (2012), Vol. 65, No. 1, pp. 1-30.
- Samuel Moyn, "Human Rights in Heaven" in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, Forthcoming), ed. Adam Etinson.
- John Tasioulas, "Philosophizing the Real World of Human Rights: A Reply to Samuel Moyn" in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, Forthcoming), ed. Adam Etinson.

Further Reading:

- Samuel Moyn, "Epilogue: The Future of Human Rights", in *Human Rights and the Uses of History* (London: Verso Books, 2014).

5. Methodological Issues II: Fidelity to the Practice

- James W. Nickel, "Assigning Functions to Human Rights: Methodological Issues in Human Rights Theory"
- Adam Etinson, "On Being Faithful to the 'Practice': A Response to Nickel" in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, Forthcoming), ed. Adam Etinson.

- Allen Buchanan & Gopal Sreenivasan, “Taking International Legality Seriously: A Methodology for Human Rights” in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, Forthcoming), ed. Adam Etinson.

Further Reading:

- John Tasioulas, “Exiting the Hall of Mirrors: Morality and Law in Human Rights” (DRAFT PAPER – Available online)

6. Human Rights and Human Dignity:

- 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.
- 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.

Further Reading:

- David Luban, “Human Rights Pragmatism and Human Dignity”, in *Philosophical Foundations of Human Rights* (Oxford: Oxford University Press, 2015), ch 14, pp. 263-278.
- Pablo Gilibert, “Human Rights, Human Dignity, and Power”, in *Philosophical Foundations of Human Rights* (Oxford: Oxford University Press, 2015), ch 10, pp. 196-213.

7. Critical Perspectives on Human Rights I: Feasibility

- Cranston, Maurice, “Are There Any Human Rights?” in *Daedalus* (1983), Vol. 112, No. 4, pp. 1-17.
- Gilibert, Pablo “The Feasibility of Basic Socioeconomic Rights: A Conceptual Exploration” in *Philosophical Quarterly* (2009), Vol. 59, No. 273, pp. 659-681.
- 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 Etinson.

Further Reading:

- 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 Etinson.

- 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.

8. Critical Perspectives on Human Rights II: 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)
- Adam Etinson, "Human Rights, Claimability, and the Uses of Abstraction" in *Utilitas* (2013), Vol. 25, No. 4, pp. 463-486.

Further Reading:

- 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.

9. Critical Perspectives on Human Rights III: Framings

- Tony Evans, "Universal Human Rights in the Global Political Economy", in *Human Rights, the Hard Questions*, eds. Cindy Holder and David Reidy (Cambridge: Cambridge University Press 2013).
- Pablo Gilabert, "Reflections on Human Rights and Power" in *Human Rights: Moral or Political?* (Oxford: Oxford University Press, Forthcoming), ed. Adam Etinson.
- Eric Posner, *The Twilight of Human Rights Law* (Oxford: Oxford University Press, 2014), Chs. 3-5, 7, pp. 59-122, 137-149.