

History 2702
**Liberty, National Rights, and Human Rights: The Origins of Human Rights Laws,
Institutions, and Policy in the Modern Period**
Bard College
Prof. Greg Moynahan

Tuesday and Thursday 10:30-11:50
Olin 204

Office Hours, 204 Fairbairn: Monday 3-4, W 11-12 and by Appointment
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Course Description:

The history of 'human rights' can formally be said to come into existence only with the U.N. Declaration of Human Rights in 1948 and the successor conventions that ultimately formed the International Bill of Human Rights. Both the declaration and its later instantiations were created in reaction to the problems of genocide and mass population transfers (and consequent loss of citizenship) during the Second World War. This course will begin by examining the fatal gaps in the previous system of nationally instantiated 'universal' rights as they were initially developed in Europe and selectively applied to or adopted by its colonies. The post-war institutions of human rights provided a new justification for a universal and 'open' standard of laws and fealty (often compared to imperial Rome) and ultimately provided new legitimating for the selective intervention of stronger powers in the affairs of weaker political or legal entities. By focusing on case studies, particularly those from the contrasting cases of the European Union and United States, the relation of human rights to hegemonic power will be examined in detail. The final section of the course will look at the role of international NGO's in both monitoring human rights and criticizing the state of existing human rights law, particularly in their criticism of human rights as a product of a particular north Atlantic perspective and set of biases.

Required Reading: Note -- All Texts Should Be Available at the Reserve Desk

- Angle, Stephen and Svensson, Marina (Editors). *The Chinese Human Rights Reader: Documents and Commentary 1900-2000* **CHRR**
- Glendon, Mary Ann. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*
- Habermas, Jurgen. *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*
- Hill, Christopher. *The World Turned Upside Down: Radical Ideas During the English Revolution*
- Hunt, Lynn. *The French Revolution and Human Rights: A Brief Documentary History*
- Ishay, Micheline (Editor). *The Human Rights Reader: Major Political Writings, Essays, Speeches, and Documents from the Bible to the Present* **HRR**
- Lauren, Paul Gordon. *The Evolution of International Human Rights: Visions Seen*
- Lindqvist, Sven. *The History of Bombing*

Crucial Websites and Resources Referred to in Syllabus:

ABA: Yale Avalon Project (Selection of Treaties, State and Legal Documents)
www.yale.edu/lawweb/avalon/westphal.htm

UMHRR: University of Michigan Documents on the History of Human Rights
www1.umn.edu/humanrts/

LW: Law of War Documents
Lawofwar.org/outline.htm

MHS: Internet Modern History Sourcebook (General History Documents) IMHS
www/fordham.edu/halsall/mod/modsbook34.html

Grading:

Two short papers (5-7 pages) will be assigned at the middle and end of the semester. There will be weekly quizzes, usually on Thursday, on material handed out in advance. Each Tuesday, one or two students will be introduced to the class material and develop questions raised by class. By Monday evening, questions on the text should be e-mailed to the instructor and the student facilitators. Attendance is mandatory; more than three unexplained absences constitute grounds for failing the class. All absences are to be explained by a written note, preferably from one of the Deans. Grade Breakdown: Two Papers: 40%; Class Presentation and Participation, 30%; Weekly Questions 15%; Weekly Map and Factoid Quizzes 15%.

SYLLABUS:

NOTE: OUR SYLLABUS WILL UNDOUBTEDLY CHANGE AS THE COURSE DEVELOPS. PLEASE STAY AWARE OF THE ASSIGNMENTS FOR EACH CLASS

PART ONE: INTRODUCTION TO THE UNIVERSAL DECLARATION -- THE INVENTION OF HUMAN RIGHTS

T 24 January

Introduction -- Human Rights: A Double-Edged Sword in the Present Global Order

TH 26 January

The Problem: Part One -- The Law of War at the Dawn of the Twentieth Century

-- A History of Bombing, First 5 Sections (to "What is Permissible in War?")

Primary Documents:

-- Grotius, "On Laws of War and Peace" HRR, 73-84

-- *Instructions for the Government of Armies of the United States in the Field, General Order 100* (April 24, 1864) Articles 1-30 AVA

<http://www.yale.edu/lawweb/avalon/lawofwar/lawwar.htm>

-- *Convention with Respect to the Laws and Customs of War on Land* (Hague, II) (29 July 1899) and *Annex, Section One*. -- *On Belligerents, Chapter One* -- *On the Qualifications of Belligerents, Chapter II*. -- *On Prisoners of War* AVA

-- *Prohibiting Launching of Projectiles and Explosives from Balloons* (Hague, IV); July 29, 1899 AVA

T 31 January

The Problem: Part Two -- Genocide, Rights, and Statehood, or, Why Wasn't the Holocaust Illegal?

MAP: EUROPE IN 1937 and 1945

-- Browning, Christopher R., "Selections" in *Ordinary Men* Harper Perennial, 1993: Preface, pp. 1-37, 55-70.

-- Arendt, Prefaces, Selections from "Totalitarianism" in *Origins of Totalitarianism*

-- Arendt, Postscript, "Eichmann in Jerusalem" RW

-- Isaac, Jeffrey C., "A New Guarantee on Earth: Hannah Arendt on Human Dignity and the Politics of Human Rights" *The American Political Science review* Vol. 90, No. 1 : 61-73.RW

Primary Document:

-- In Class Selections from film of *The Trial of Adolf Eichmann*

TH 2 February

The First Attempted Solution: The Universal Declaration of Human Rights

-- Max Weber, Definition of Law from "Class, Status, Party" RW

-- Pagels, "Human Rights: Legitimizing a Recent Concept," *Annals of the American Academy of Political and Social Science*, Vol. 442, March 1979, 58 RW

-- Glendon, *A World Made New*, Chpts. 1-6

Primary Documents:

-- Drafts 1-3 of the Universal Declaration (Glendon Appendix)

-- Jacques Maritan, selections from *Man and State* RW

T 7 February

The First Attempted Solution: The Universal Declaration of Human Rights, Part Two

-- Glendon, *A World Made New*, Chpts, 37-11

Map : Near and Far Asia

QUIZ: The Universal Declaration of Human Rights

Primary Documents:

-- Draft 4 - Final Draft of the Universal Declaration (Glendon Appendix)

PART TWO: THE NATIONAL RIGHTS PARADIGM AS A HISTORICAL CREATION

TH 9 February

The Wars of Religion and the Development of the "Westphalian System": Or, Why are Nations Sovereign?

-- Kishlansky, "The Reform of Religion" and "Europe at War" RW

-- Held et. Al., "The Territorial State and Global Politics," 32-39 RW

-- Reisman, W. Michael, "Sovereignty and Human Rights in Contemporary International Law" *The American Journal of International Law* Vol. 84, No. 4 : pp. 866-876

Primary Documents:

-- Selected Documents from Reformation, RW

-- The Adventurous Simplicissimus, H.J.C von Grimmshausen, MHS

college.hmco.com/history/west/mosaic/chapter8/source164.htm

-- "An Englishman's Report on the Thirty Years' War" in Roe, Thomas, "Letters Relating to the Mission of Sir Thomas Roe to Gustavus Adolphus" MHS

T 14 February

The Westphalian System and Sovereignty in the Context of Later Globalization

-- Held et. al. "Sovereign Power and Globalization" RW

Primary Documents:

-- Grotius, Selections from *On Laws of Wars and Peace* 1625 HRR

-- Hobbes, Selections from *Leviathan* 1652 HRR

-- Locke, Selections, HRR

-- Treaty of Westphalia

www.yale.edu/lawweb/avalon/westphal.htm

TH 16 February

The Peculiarity of the Westphalian System and the Evolution of the Modern Global Legal and Political Order: A Comparison of Qing China and Europe

MAP: China in the 18th and Early 20th Centuries

-- Spence, "China and the Eighteenth Century World" RW

Primary Documents:

-- Selected Documents from Last Years of the Qing Dynasty, 1900-1911 CHRR

-- Documents on Qing Diplomacy, Concept of Law RW

T 21 February

The British Tradition of Liberty and the Lost Legacy of the 'Radical Revolution' -- Part One: The English Revolution and the Formation of Political Theory

-- Arendt, "The Political Emancipation of the Bourgeoisie" in *Origins of Totalitarianism*

-- Hill, Selections from *The World Turned Upside Down*

Primary Documents:

-- Magna Carta HRR

-- Hobbes, *Leviathan* 1652 HRR

-- Habeas Corpus Act 1679 HRR

-- English Bill of Rights 1689 HRR

-- Locke, *Second Treatise on the State of Nature* 1690 HRR

-- Locke, "Of the Dissolution of Government" 1690 HRR

TH 23 February

The British Tradition of Liberty and the Lost Legacy of the 'Radical Revolution' -- Part Two: English Revolution: The Radical Revolution and Alternative Definitions of the Subject

-- Hill, Selections from *The World Turned Upside Down*

-- Weber, "'Churches' and 'Sects' in North America" 1906 RW

Primary Documents:

-- Selected Documents from the Diggers and Levelers RW

-- Pico Della Mirandola, "Oration on the Dignity of Man" RW

T 28 February

French Revolution and the National Basis of 'Universal' Rights

-- Kishlansky, RW

Primary Documents:

-- Hunt, *The French Revolution and Human Rights*

-- Paine, "The Rights of Man" 1792 HRR

-- Robespierre, "On Property Rights" 1793 HRR

-- Selected Conservative Reactions to the French Revolution RW

TH 2 March

French Revolution and the National Basis of 'Universal' Rights

Map: Central America, South America and the Caribbean in the Age of Revolution

-- Lauren, Evolution of International Human Rights, Chapter Two

-- Hunt, *The French Revolution and Human Rights*

Primary Documents:

-- Documents from the Haitian and Latin American Revolutions RW

FIRST PAPER DUE

PART THREE: TOPICS IN THE HISTORY OF RIGHTS AND EXTRATERRITORIALITY

T 7 March

"Civilizational Discourse" and Colonialism

-- Arendt, "Imperialism" in *The Origins of Totalitarianism*

-- Elias, "A Digression on Nationalism: History of Culture and Political History," and "Sociogenesis of the Difference Between Kultur and Zivilisation in German Usage" RW

-- Adas, Michael, "Attributes of the Dominant" in , *Machine as Measure of Man* Cornell U.P.: 1989: pp. 199-237. RW

Primary Documents:

-- Selected Documents from Colonial Administration RW

TH 9 March

Civilizational Discourse and Colonialism, Part Two

Map: Map of Africa in 1900

-- Selections from Hobsbawm, *The Age of Imperialism*

-- Conklin, Alice L., "Colonialism and Human Rights, A contradiction in terms? The Case of France" *The American Historical Review* Vol. 103, No. 2 : 419-442.

-- Anthony Pagden, "Human Rights, Natural Rights, and Europe's Imperial Legacy" in *Political Theory: An International Journal of Political Philosophy* Vol. 31, Issue 02, March 2003 RW

-- Karl Marx, "On the Jewish Question" 1843 HRR

Primary Documents:

-- Documents on the Opium Wars and Missionaries in China; Documents on Colonialism in Africa RW

-- Rudyard Kipling, "The White Man's Burden",
www.fordham.edu/halsa11/mod/Kipling.html

Paine, "African Slavery in America" 1775 HRR

-- Questionnaire on Civilization, *Berliner Allgemein Zeitung*, 1899 RW

T 14 March

Economy, Rights, and the Definition of Man

-- Selections from Hobsbawm, *Age of Empire*

Primary Documents:

-- Proudhon, "What is Property? Or, an Inquiry into the principle of right and government" 1840 HRR

-- Proudhon, "The Principle of Federalism" 1863 HRR

-- August Bebel, "Women and Socialism" 1883 HRR

-- Luxemburg, "The National Question and Autonomy" 1909 HRR

TH 16 March

Economy and the Public Sphere

-- Habermas, *The Structural Transformation of the Public Sphere*

T 21 March

The Creation of the Public Sphere and the Evolution of Humanitarianism

-- Habermas, *The Structural Transformation of the Public Sphere*

-- Thomas Haskell, "Capitalism and the Origins of Humanitarian Sentiment" RW

-- Donnelly, Jack, "Human Rights: A New Standard of Civilization" *International Affairs* Vol. 74, No. 1 : 1-23.

-- Lauren, *The Evolution of International Human Rights: Visions Seen*, Chapters Four

TH 25 March

Technology, Mass Murder, and the Problem of the Rights of the Human

-- Lauren, *The Evolution of International Human Rights: Visions Seen*, Five

-- Lindquist, History of Bombing

-- Beiniger, Control Revolution RW

-- Social History of the Machine Gun RW

-- Hobsbawm, *Age of Empire*, on Colonial Wars and WW1

T 28 March Spring Break

TH 30 March Spring Break

T 4 April

Technology, Mass Murder, and the Problem of the Rights of the Human, Part Two

-- Arendt, selections from "Totalitarianism" in *The Origins of Totalitarianism*

-- Kershaw, *The Nazi Dictatorship*, Selections on bureaucracy

-- Held, David et. al., "The Expanding Reach of Organized Violence [16pgs]" in , *Global Transformations: Politics, Economics, and Culture* RW

TH 6 April

The Holocaust and Bureaucracy

- Arendt, selections from "Totalitarianism" in *The Origins of Totalitarianism*
- Todorov, *The Fragility of Goodness* RW
- Hobsbawm, *The Age of Extremes*, Selections

Primary Documents:

- Bulgarian Documents in Todorov RW
- Documents on the Implementation of the Holocaust

PART FOUR: THE DEVELOPMENT OF THE POST-WAR INTERNATIONAL SYSTEM

T 11 April

The Appearance of Laws Against Genocide

- Lauren, *The Evolution of International Human Rights: Visions Seen*, Chapter Six
- Michael Ignatieff, "Lemkin's Word" in *The New Republic*, No. 4, 493 (26 February 2001) 25-28 RW

Primary Documents:

- Essays by Raphael Lemkin LW

TH 13 April

The Trial at Nuremberg: The First Trial for Crimes Against Humanity

- Taylors, Telford, "Anatomy of the Nuremberg Trials" RW

Primary Document:

- Jackson, "Opening Statement," The Nuremberg Case RW
- USA, France, Soviet Union, Britain (3pgs), "Charter International Military Tribunal (Nuremberg)" RW

T 18 April

Expansions of Human Rights in the Post-War Period: European Union, Human Rights, and Later Covenants

- Lauren, *The Evolution of International Human Rights: Visions Seen*, Chapter Seven
- Thomas, selection from *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism* RW

Primary Documents:

- Selected Documents on Charta 77 from Havel and Patočka, RW
- The 1975 Helsinki Accord

TH 20 April

Further Expansions of Human Rights: European Union, Human Rights, and Later Covenants

- Hobsbawm, *Age of Extremes*, Selections
- Collingsworth, Terry, "The Key Human Rights Challenge: Developing Enforcement Mechanisms [19 pgs]" *Harvard Human Rights Journal* Vol.15, Spring 2002 : pp. 183-203
- Lauren, *The Evolution of International Human Rights: Visions Seen*, Chapter Eight
- Knop, "Why Rethinking the Sovereign State is Important for Women's International Human Rights Law" RW

-- Fitzpatrick, "The Use of International Human Rights Norms to Combat Violence Against Women" RW

Primary Documents:

-- *Human Rights Conventions from the 1960s and 1970s* www.unhchr

T 25 April

NGOs, Enforcement, and the Expansion of Human Rights in the Post War Period

MAP: Southeast Asia

-- Collingsworth, Terry, "The Key Human Rights Challenge: Developing Enforcement Mechanisms" RW

Primary Documents:

United Nations, Various Conventions, "Convention Against Torture in www.unhchr

TH 27 April *The Resistance to Human Rights: The Case of China and Human Rights*

-- Spence, *The Search for Modern China*, Selections RW [Chpts 19-22; 24-25; Review introductions to each major part of book]

-- Sen, Amartya (26pgs), "Human Rights and Asian Values" *Carnegie Council Lecture* RW

-- Ghai, Yash (15pgs), "Human Rights and Asian Values" *Public Law Review* Vol. 9, No. 3, 1998 : pp. 168-182. RW

Primary Documents:

-- CHRR, Selections [34, 36, 38, 40,43, 46; look over part VIII]

-- Frolic, Michael B., "Down with Stinking Intellectuals [9pgs]" in , *Mao's People* Harvard University Press, 1980: pp. 71-86 RW

-- Frolic, Michael B., "Kill the Chickens to Scare the Monkeys [12pgs]" RW

T 2 Reading Week

Th 4 Reading Week

T 9 May *The New World Order: Contrasting Human Rights as a Geopolitics in the U.S. and E.U.*

-- Ignatieff, Michael, "Virtual War" in , *Virtual War: Kosovo and Beyond* : 161-215. RW

-- Declare War, with Leslie H. Gelb, 296 *THE ATLANTIC MONTHLY* 54 (2005).

<http://www.wws.princeton.edu/slaughtr/Articles/DeclareWar.pdf>

-- Economist Intelligence Unit, "European Union" in , *Country Profile 2005* RW

-- A.M. Slaughter, A Dangerous Myth, *PROSPECT MAGAZINE*, January 22, 2004.

<http://www.wws.princeton.edu/slaughtr/Articles/Myth.pdf>

-- Look over: *uman rEuropean Human Rights and Democratization Policy*

http://europa.eu.int/comm/external_relations/human_rights/intro/index.htm

[Further secondary readings on RW]

TH 11 May *Complexity and Criticism in a Networked World*

-- Bill Joy, "Why the Future Doesn't Need Us" at

<http://www.wired.com/wired/archive/8.04/joy.html>

-- Sovereignty and Power in a Networked World Order, 40 *STANFORD JOURNAL OF*

INTERNATIONAL LAW 283 (2004).

<http://www.wws.princeton.edu/slaughttr/Articles/Stanford.pdf>

-- D. Rieff, "Humanitarianism in Crisis" *Foreign Affairs* Nov./Dec.

2002 : pp. 111-121.

- D. Rieff, "A Bed for the Night: Humanitarianism in Crisis" : pp. 31-56, 303-335.

M 15 May Paper Due

T 18 May

Conclusion

-- Hardt and Negri, Selections from *Empire RW*