



Human Rights and International Order

Professor Liav Orgad

Summer 2019

Class C.B02

Contact: Oliav@idc.ac.il

Teaching Assistant: Nati Flamer, nf20802@gmail.com

Overview

The horrors of World War II led to the adoption of the Universal Declaration of Human Rights (UDHR), whose 30 articles constitute the cornerstone of international human rights law. The seminar includes three parts. The first part discusses the “human rights revolution”—its evolution, theory, justification, internationalization, promises and failures, and effects on world affairs. The second part focuses on some of the most urgent human rights dilemmas of our time: global migration, counter-terrorism measures, minority and majority rights, self-determination, multiculturalism, animal rights, LGBT rights, environmental rights, torture, racial discrimination, populist challenges to human rights, #MeToo, individual responsibility, and transitional justice. The third part examines the future of human rights. Topics that have been the focus of world affairs in the 70 years since the adoption of the UDHR in 1948 are likely to be different in the next 70 years. New technologies—AI, Blockchain, genome editing, and machine learning—remodel the definition of who is “human” and what is “right,” transform basic concepts such as “intent” and “free will,” and conceptualize institutions such as citizenship, state, and the family unit. How human rights might look like in the future—will the defining topics be politically oppressed and marginal communities or rather robot rights, data protection, identity, and privacy?

Reading Assignments

The course will draw upon legislative materials, policy analysis, case law, and selected literature.

In advance of each class, please read the materials prescribed in the syllabus. Students should come to class prepared, having completed the readings and considered the guiding questions for each of the classes. The reading materials are available on the course webpage. It is an obligation of the students to regularly check the ongoing updates and assignments on the course website.

Grade

Final Paper: The assignment will be done in pairs (10 pages, not including cover page and bibliography) and should focus on one of the course subject matters. It should include a research question, literature review, and a thesis. Students should send to the TA the chosen topic (according to the instructions to be published) and an abstract no later than August 8, 2019. Students cannot write on a topic that has been already chosen; the selection will be on the basis of first come, first served. Students should submit a final paper no later than September 13, 2019.

Grade: Final paper: 100%.

A bonus (up to 3%) may be granted for constructive contribution in class.

SECTION I: THE HUMAN RIGHTS REVOLUTION

CLASS 1: **Evolution**

1. Charles R. Beitz, *The Idea of Human Rights*, Oxford University Press, 2011, 14-47.
2. James Nickel, *Making Sense of Human Rights*, New Jersey: John Wiley and Sons Ltd., 2006, 7-21.
3. Rowan Cruft, S. Matthew Liao, and Massimo Renzo (eds.), *Philosophical Foundations of Human Rights*, 2015, Oxford: Oxford University Press (Part I, excerpts).

CLASS 2: **Theory**

1. H.L.A Hart, "Are There Any Natural Rights?" *Philosophical Review* 64(2) (1955): 175-191.
2. Thomas M. Franck, "Are Human Rights Universal?" *Foreign Affairs* 80(1) (2001): 191-204.
3. Allen Buchanan and Gopal Sreenivasan, "Taking International Legality Seriously: A Methodology for Human Rights", in *Human Rights: Moral or Political?* Adam Etinson (ed.). Oxford: Oxford University Press, 2018, 221-229.

CLASS 3: **Legalization**

1. William L.F. Felstiner, Richard L. Abel, and Austin Sarat, "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming", *Law & Society Review* 15(3/4) (1980-1981): 631-654.
2. Doron Teichman and Eyal Zamir, "Behavioral Analysis of International Law: On Lawmaking and Nudging" (2018). *Hebrew University of Jerusalem Legal Research Paper* No. 18-8.
3. Upendra Baxi, *The Future of Human Rights*, New York: Oxford University Press, 2008, Ch. 4.

CLASS 4: **Internationalization**

1. Hannah Arendt, *The Origins of Totalitarianism*, Harcourt, Brace, Jovanovich, 1973, Ch. 9.
2. Paul G. Lauren, *The Evolution of International Human Rights*, Philadelphia: University of Pennsylvania Press, 2nd ed., 2003, 199-232.
3. David P. Forsythe, *Human Rights in International Relations*, Cambridge: Cambridge University Press, 2012, 3-24.

SECTION II: CONTEMPORARY WESTERN DILEMMAS

CLASS 5: Global Migration Governance

1. Susan F. Martin, “International Migration and Global Governance”, *Global Summitry* 1(1) (2015): 64–83.
2. Michael W. Doyle, “The Model International Mobility Convention”, *Columbia Journal of Transnational Law* 56 (2018): 219-233.
3. “Special Issue: The 2018 Global Compacts on Refugees and Migration” *International Journal of Refugee Law* 30(4) (2018) (excerpts).

CLASS 6: Minority Rights and Majority Rights

1. Will Kymlicka, “The Internationalization of Minority Rights”, *International Journal of Constitutional Law* 6(1) (2008): 1–32.
2. Avishai Margalit and Moshe Halbertal, “Liberalism and the Right to Culture”, *Social Research* 71(3) (2004): 529–548.
3. Liav Orgad, *The Cultural Defense of Nations: A Liberal Theory of Majority Rights*, Oxford: Oxford University Press, 2015, 181-201.

CLASS 7: State Neutrality and Religious Identity

1. Christian Joppke, “A Christian Identity for the Liberal State?” *British Journal of Sociology* 64(4) (2013): 597-616.
2. Graham Long, *Relativism and the Foundations of Liberalism*, Exeter, UK and Charlottesville, USA: Imprint Academic, 2004, 195-217.
3. *Lautsi v. Italy* Application 30814/06 (E.Ct.H.R., March 18, 2011).

CLASS 8: Individual Responsibility and Corporate Social Citizenship

1. Anne Peters, *Beyond Human Rights: The Legal Status of the Individual in International Law*. Cambridge: Cambridge University Press, 2016, Ch. 4-5, 16 (excerpts).
2. Samuel Scheffler, “Individual Responsibility in a Global Age”, *Social Philosophy and Policy* 12 (1) (1995): 219-236.
3. Archie B. Carroll, “The Four Faces of Corporate Citizenship”, *Business and Society Review* 100/101 (2003): 1-7.

CLASS 9: **A Right to Democracy**

1. Thomas Christiano, “An Instrumental Argument for a Human Right to Democracy”, *Philosophy & Public Affairs* 39(2) (2011): 142-176.
2. Jason Brennan, *Against Democracy*, Princeton: Princeton University Press, 2016 (excerpts).
3. Thomas M. Franck, “The Emerging Right to Democratic Governance”, *American Journal of International Law* 86 (1) (1992): 46-91.

CLASS 10: **Populist Challenges to Human Rights**

1. Philip Alston, “Populist Challenges to Human Rights”, *Journal of Human Rights Practice* 9(1) (2017): 1-15.
2. Paul Blokker, “Populism as a Constitutional Project”, *International Journal of Constitutional Law* 17(2) (2019): 536-553.
3. Jan-Werner Müller, “False Flags: The Myth of the Nationalist Resurgence”, *Foreign Affairs*, March/April 2019.

CLASS 11: **Racial Profiling and Predictive Policing**

1. Badi Hasisi, Yoram Margalioth, and Liav Orgad, “Ethnic Profiling in Airport Screening: Lessons from Israel, 1968–2010”, *American Law and Economics Review* 14(2) (2012): 517-560.
2. Mathias Risse and Richard Zeckhauser, “Racial Profiling”, *Philosophy and Public Affairs* 32(2) (2004): 131-170.
3. Frederick Schauer, *Profiles, Probabilities, and Stereotypes*, Cambridge: Harvard University Press, 2006, 1-26.

CLASS 12: **The “Trolley dilemma” and Human Dignity**

1. David Sussman, “What’s Wrong with Torture?” *Philosophy and Public Affairs* 33(1) (2005): 1-33.
1. Alex J. Bellamy, “No Pain, No Gain? Torture and Ethics in the War on Terror”, *International Affairs* 82 (1) (2006): 121-148.
2. German Constitutional Court, “Authorization to Shoot down Aircraft in the Aviation Security Act Void” (Feb. 15, 2006, excerpts).

CLASS 13: **Freedom of Speech in the Age of Social Media (Guest Lecture)**

Reading materials TBD

CLASS 14: #MeToo and Human Rights

1. Catharine A. MacKinnon, “Where #MeToo Came From, and Where It’s Going”, *The Atlantic*, March 24, 2019.
2. Holly Baxter, “#MeToo Has Made us Better People, Hasn’t It?” *The Independent*, December 29, 2018.
3. Caroline Bettinger-Lopez and Rebecca Hughes, “Codifying #MeToo Into International Law”, *Council on Foreign Relations*, January 24, 2019.

CLASS 15: LGBT Rights (Guest Lecture)

Reading materials TBD

CLASS 16: Global Inequality

1. Branko Milanovic, *Global Inequality: A New Approach for the Age of Globalization*, Cambridge: Harvard University Press, 2016, 10-45.
2. David Goodhart, *The Road to Somewhere: The Populist Revolt and the Future of Politics*, Hurst, 2017, 81-116.
3. “Universal Basic Incomes: Sighing for Paradise to Come”, *The Economist*, June 4, 2016.

CLASS 17: The Politics of Human Rights

1. Michael Ignatieff, “Human Rights as Politics,” in *Human Rights as Politics and Idolatry*, Amy Gutmann (ed.). Princeton: Princeton University Press, 2001, 3-52.
2. Moshe Halbertal, “The Goldstone Illusion”, *The New Republic*, November 6, 2009.
3. David W. Kennedy, “The International Human Rights Regime: Still Part of the Problem?” In *Examining Critical Perspectives on Human Rights*, Rob Dickinson, Elena Katselli, Colin Murray, and Ole W. Pedersen (eds.). Cambridge: Cambridge University Press, 2012, 19-34.

CLASS 18: Protecting Human Rights by Class Actions

1. Maureen Carroll, “Aggregation for Me, But Not for Thee: The Rise of Common Claims in Non-Class Litigation”, *Cardozo Law Review* 36(6) (2015): 2017-2083.
2. Barak Atiram, "From Brown to Rule 23: The Rise and Fall of The Social Reform Class Action", *Review of Litigation* 37(1) (2018): 47-87.
3. Yair Ettinger, “Supreme Court Censures Haredi Radio Station Over Women-free Broadcasts”, *Haaretz*, December 11, 2015.

CLASS 19: Workplace Automation, Robots, and Labor Rights (Guest Lecture)

Reading materials TBD

SECTION III: THE FUTURE OF HUMAN RIGHTS

CLASS 20: Environmental Rights (Guest Lecture)

Reading materials TBD

CLASS 21: Animal Rights

1. Will Kymlicka and Sue Donaldson, “Animals and the Frontiers of Citizenship”, *Oxford Journal of Legal Studies* 34(2) (2014): 201–219.
2. Yuval Noah Harari, “Industrial Farming is One of the Worst Crimes in History”, *The Guardian*, September 25, 2015.
3. Appeal 9232/01, “Noah”, *the Israeli Federation of Animal Protection Organizations v. The Attorney General* (2003) (excerpts).

CLASS 22: Human Rights and The Fourth Industrial Revolution

1. Christopher Gyngell, Thomas Douglas, and Julian Savulescu, “The Ethics of Germline Gene Editing”, *Journal of Applied Philosophy* 34(4) (2017): 498-513.
2. David J. Gunkel, “The Other Question: Can and Should Robots Have Rights?”, *Ethics and Information Technology* 20(2) (2017): 87–99.
3. Klaus Schwab, *The Fourth Industrial Revolution* (2017): 6-13.

CLASS 23: Human Ratings and Social Credits

1. Daithi Mac Sithigh and Mathias Siems, “The Chinese Social Credit System: A Model for Other Countries?” *Modern Law Review* (forthcoming).
2. Yu-Jie Chen, Ching-Fu Lin, and Han-Wei Liu, “Rule of Trust: The Power and Perils of China's Social Credit Megaproject”, *Columbia Journal of Asian Law* 32(1) (2018): 1-36.
3. Beth Simone Noveck, “More Than A Coin: The Rise of Civic Cryptocurrency”, *Forbes*, March 27, 2018.

CLASS 24: 70th Anniversary of the UDHR: Reassessment

1. Samuel Moyn, “Human Rights Are Not Enough”, *The Nation*, March 2018; Eric Posner, “The Case Against Human Rights”, *The Guardian*, December 4, 2014.
2. Dominique Clément, “Human Rights or Social Justice? The Problem of Rights Inflation”, *The International Journal of Human Rights* 22(2) (2018): 155-169.
3. John Tasioulas, “Taking Rights out of Human Rights”, *Ethics* 120(4) (2010): 647-678.

Useful volumes for further readings:

1. Cindy Holder and David Reidy (eds.), *Human Rights: The Hard Questions*, Cambridge: Cambridge University Press, 2013.
2. Rowan Cruft, S. Matthew Liao, and Massimo Renzo (eds.), *Philosophical Foundations of Human Rights*, Oxford: Oxford University Press, 2015.
3. Claudio Corradetti (ed.), *Philosophical Dimensions of Human Rights*, New York: Springer, 2012.
4. Debra L. DeLaet, *The Global Struggle for Human Rights: Universal Principles in World Politics*, Cengage Learning, 2016.
5. Michael Goodhart (ed.), *Human Rights Politics and Practice*, Oxford University Press, 2016.
6. Peter Baehr, *Human Rights: Universality in Practice*. Palgrave Macmillan, 1999.
7. United Nations, OHCHR, *Human Rights Report 2018*, May 2019.