Human Rights and Global Governance
Phil 3713

(Crosslisted also as “Introduction to Peace & Justice Studies – PJST 3110)

Course Handouts

Instructor: John Davenport
Fall 2012

Monday - Thursday 2:30 - 3:45 PM
Précis of the Seminar:
This class focuses on the basis of human rights, beginning with a short historical background and moving quickly to the central question of whether/how we can justify universal basic rights. In particular, are universal rights consistent with a wide array of varying cultures and ways of life, or do they depend on an inherently "western" or "individualist" conception of persons? If relativist doubts can be answered, disagreement still arises over the range and content of rights – especially about whether people have “positive” rights to subsistence, education, and other material means, e.g. to enforce one’s “negative” rights to liberties. Rather than pressing too far into moral theory and the debate between more libertarian and more welfarist conceptions, we will relate the growth of rights law in international treaties to related issues in just war theory, including important questions about humanitarian intervention. These issues are directly relevant to recent dramatic changes in the Arab world, in Africa, and potentially parts of southeast Asia. These causes force us to ask how the international order should be restructured if we take seriously the idea that there are universal basic rights to freedom from slaughter, persecution, tyranny and perhaps to development out of poverty. At this point, the idea of basic rights clearly needs to be situated in a more comprehensive conception of global justice, and we will consider two promising alternatives. The concept of "global public goods," arguably including some environmental goods, will be helpful at this point in our analyses.

Prerequisites: This is an interdisciplinary course that will count towards the Philosophy major and minor. The readings will be generally accessible to any interested student who has completed the freshman and sophomore core courses in Philosophy; the only background it assumes is some general familiarity with utilitarian and Kantian ethical theories. It is open to students in all majors and may be helpful to those with interests in law, ethics, politics, and international studies.

Course Themes and Units:
1. Historical background on the human rights movement, beginning with 18th century revolutions, 19th century humanitarianism, and including key legal documents after World War II.
2. Philosophical accounts and justifications for human rights, starting with a brief review of ‘classical modern' theories (Hobbes, Locke, Rousseau), but concentrating on more recent Kantian, utilitarian, neo-Aristotelian and social theory approaches.
3. Cultural relativism and the critique that rights are a western and/or inherently individualist, or even capitalist; and we consider a variety of possible replied to these critiques. We will return to
‘postmodern’ versions of this critique later in the semester.

4. "Cosmopolitan" theories of global justice that emphasize equal universal rights for all, and their efforts to bridge the gap between pure moral rights and political rights enshrined in positive law.

5. Different lists and orders of rights commonly proposed, including the tension between civil and political rights, and social and economic rights. This is related to the libertarianism vs socialism debate: are basic human rights are only "negative" rights to liberty from interference by government or other persons -- esp. rights to life and civil liberties -- or whether they include "positive" entitlements to certain powers, opportunities, development of capacities, well-being?

6. Several applications show how rights of both sorts may be important; in particular, we focus on freedom from sexual slavery, and children's rights to nurture, safety, and education. We see here how basic rights must ultimately be included in a comprehensive conception of global justice.

7. Humanitarian intervention. Clearly, rights even of the most minimal and negative sort, e.g. rights to freedom from massacre and torture, may justify humanitarian intervention in civil wars. Yet this sort of military intervention runs counter to the supremacy of state sovereignty in the UN.

8. Global governance: What kind of system of global governance could assure and enforce basic rights for all human beings, along with other components of global justice? If the UN Security Council cannot do this, could a league of democracies or some other institution do better?

9. Habermas’s conception of democratic justice and pluralistic global governance seems to provide a response to postmodern skeptics of rights, but does it correctly explain what kind of democratic global governance is possible or ideal for a world order aimed at upholding basic rights?

Texts: Both Required unless otherwise marked. Please buy the books; you will need them in class!

3. Other articles and book chapters will be on eres or emailed as pdfs. I may be able to make complete copies of the assigned essays in the form of a course packet if desired (for sale at cost).

ERES Resources: A lot of extra readings can be found in my other courses on eres. See courses on Ethics, Political Libertarianism, Honors Rights Seminar, etc. The password for all my courses is always “Davenport” + the 4-digit course number. Remember that copies are for your personal use.

Assignments:

15% Class participation (including attendance, discussion, any in-class exercises or group work).
15% Argument Analysis essay (roughly 4 pages – two set of topics to choose from).
20% Critical Response essay (roughly 5 pages) OR Oral Report on a given reading for the day (with 3-page written summary & questions) – consult me in advance for good oral report topics.
25% Take-home test (in lieu of final exam): multiple choice and short answer questions.
25% Final Term Paper on theoretical or applied topic (12 pages + bibliography).

Honesty and Citation: I take the issue of academic honesty very seriously; cheating is the one unforgivable sin in my class. Handing in work you did in another class without clearing it with me is cheating. Handing in work written in whole or part by anyone else, or copying from any secondary source, without citing it constitutes plagiarism. Copying from an uncited Internet webpage constitutes plagiarism, even if the wording has been significantly changed. You are welcome to bring in ideas and quotes from secondary sources, but you must cite them either by footnotes, or parenthetical
references in the main text referring to a bibliography at the end of the paper. But be judicious: even if you acknowledge an internet site, you can't just lift large sections of its text wholesale: only take short quotations, clearly indicated as such in your paper. Every quote should be explained and have a clear purpose in your argument.

— This includes paraphrases: even if you reword what the author said, cite the page number.
— **Block indent** long quotes (in a font 1 point smaller than your main text) to set them off.
— It also includes websites: give the full URL of the page you cite. For background, use the Stanford Encyclopedia of Philosophy online or the Routledge Encyclopedia in our library database pages.
— I sometimes have to fail someone for academic dishonesty. Don’t let it be you. Be fair to other students, and to yourself, by honoring the values of academic honesty.
— Please see the following policies: [http://www.fordham.edu/undergraduateacademicintegrity](http://www.fordham.edu/undergraduateacademicintegrity)

**Absences:** More than two unexcused absence will significantly lower your class participation grade. Remember that this is a seminar-style course focused on discussion of life-issues and the collective engagement with the readings: this requires your active presence and engagement with the material.

**Tentative Schedule** – [this is not the final syllabus; it is the preliminary July 31 version].
We usually discuss the readings in the order listed, though we may not get to all the recommended readings. Please come prepared with questions on the readings for the day (no questions are dumb!).

**8/30: Introduction to Course Themes** – see handouts coming with syllabus.
(1) Elements of the course; review of syllabus; discussion of student interests and background.
(2) Handout on Hohfeld’s distinctions between rights and liberties; Rights as a three-place relation
(3) The Landscape of views on Human Rights, and range of possible implications for governance.
(4) Human Rights as part of Theories of Justice (and Moral Theory in general).

**9/5 - 9/6: Conceptual Basics & History**  
[NB: Weds 9/5 classes follow Mon schedule!]
(1) Background on rights theory continued: Sources and Grounds of Basic Rights
(3) Orend, *Human Rights*, ch.7 on 19th century background.
(4) Historical background: Orend, Appendix A: French, American, and Canadian bills of rights, and the UDHR. Compare eres docs: Charter of the Nuremberg Tribunal; Geneva Conventions (1949), the European Charter, German Basic Law, the Rome Statute of the International Criminal Court.
(5) Discussion: the History of the Red Cross and Aid Organizations; growth of global NGOs.
(6) **Recommended reading:** Peter Redfield, “The Impossibility of Neutrality,” in *Forces of Compassion: Humanitarianism between Ethics and Politics* ch.3 (eres).

**9/10-9/13: Political Background, 20th Century Crises, and the International Criminal Court**
(1) Orend, *Human Rights*, ch.8 on 20th century “and beyond”
(2) Historical background: Charter of the Nuremberg Tribunal; UN Genocide Convention; German Basic Law; EU Convention on Basic Rights; Rome Statute of the ICC (on eres and websites).
(3) Discussion of Cambodia, Bangledesh, Somalia, Bosnia, Kosovo, Rwanda, Haiti, East Timor.
(4) **Recommended background:** Brian Lepard, *Rethinking Humanitarian Intervention*, ch.1 on the history of late 20th century military interventions for humanitarian reasons (eres).
9/17 - 9/20: Philosophical Grounds for Human Rights

(1) Background: Natural Rights theory – Locke, Kant, Mill, & the Enlightenment.


(3) Deontological and Utilitarian Grounds: Orend, Human Rights, chs.2-3 (with emphasis on ch.3).


(5) Background reading on utilitarian and deontological theories: “Rights as Trumps,” Ronald Dworkin, in Theories of Rights (eres) [this essay is a little more theoretically advanced].

9/24: Philosophical Grounds and the Problem of Relativism


(2) First due date for Argument Analysis paper (topics option 1; option 2 topics come later).


An alternative is the film Osama, about a mother and girl living in Afghanistan (class choice).

10/1-10/4: The Cultural Relativist Critique: Theory, Politics, and Anthropology

(1) Versions of Cultural Relativism (see course handouts)


(3) Discussion: the Bangkok Declaration of 1993 (see eres doc) and the ‘Asian Values’ Movement.


(6) Discussion: Does the ‘Arab Spring’ and spread of democracy strengthen case for universalism?

(7) Second due date for Argument Analysis paper (topics option 2): 10/4

10/8: Columbus Day – no class.

10/11: Cultural Relativism and Defenses of Rights-Universalism


(2) Carol Gould, “Universality and Cultural Relativism,” ch.2 in Globalizing Democracy and Human Rights (eres) – a social development of the neoAristotelian ‘positive freedom’ tradition, esp. Sen and Nussbaum’s capabilities theory of freedom, well-being, and essentially human goods.

10/15-10/18: Contemporary Cosmopolitan Defenses of Universalism

(1) Charles Beitz, “Naturalistic Theories,” ch.3 of The Idea of Human Rights (eres)


(4) Summary of Thomas Pogge on global economic links and global responsibilities (handout).
10/22-10/25: Content: Proposed Hierarchies and Scopes of Universal Rights
(1) Orend, Human Rights, chs.4-5 on the content of rights and the burden of related duties.
(2) Brian Leppard, Rethinking Humanitarian Intervention, ch.2 on “Fundamental Ethical Principles in Contemporary International Law and World Religions...” (eres)
(3) Critical Response essay due 10/25 (for those not doing an oral report).

10/29 - 11/1: Libertarian Minimalist accounts vs ‘Positive’ Economic and Cultural Rights
(1) Background: Isaiah Berlin’s distinction between negative and positive freedoms (again)
(2) Tibor Machan on the Lockean Tradition: “What Rights Do We Have?” Journal of Value Inquiry 2009 (eres)
(5) Recommended reading: Peter Singer, One World ch.5: “One Community” (eres)

11/5 - 11/8: Applications: Women’s Rights, Human Trafficking, Children’s Rights
(3) Discussion: Other applications: Torture, Refugees, Immigration, Basic Environmental Goods (e.g. stable supplies of food, safe water, clean air, perhaps arable land).

11/12 - 11/15: Humanitarian Intervention and Forms of Global Governance: UN or NATO?
(2) Ivo Daalder and James Stavridis, “NATO’s Triumph in Libya,” Foreign Affairs 91 no.2 (eres)
(4) Discussion: powerpoint presentation on a federation of democracies as alternative to UN.
(5) Secondary background: a sample of popular articles on league of democracy proposals (eres)

11/19: Failing States, Secession, and Global Governance
(2) Allan Buchanan, “Secession, State Breakdown, and Humanitarian Intervention,” in Ethics and Foreign Intervention, ed. Chatterjee and Scheid (eres)

11/22: Happy Thanksgiving! (but.... do turkeys have rights?).

11/26 - 11/29: Habermas’s Discursive Universalism, Rights to Democracy & Postmodern Critics
(1) Take-home test due Nov.26.
(2) Background: Habermas’s Discourse Ethics & Deliberative Theory of Democracy (class handout)
(3) Jürgen Habermas, “On Legitimation through Human Rights,” in Global Justice and
Transnational Politics, ed. De Greiff and Cronin (eres).

(4) Alain Badiou, Introduction to Ethics (eres) – neoMarxist rejection of universal rights regimes.

(5) Keith Doubt, Understanding Evil: Lessons from Bosnia, ch.8: “Postmodernism’s Relation to Evil” (eres).


12/3 - 12/6: Habermas’s Response: A Pluralistic Global Order with Universal Rights

(1) Jürgen Habermas, “Fundamentalism and Terror,” in The Divided West (eres).

(2) Habermas for a reformed/expanded UN rather than a Democratic Federation: “The Postnational Constellation and the Future of Democracy,” in The Postnational Constellation ch.4 (eres)


(4) Begin Kurasawa (time-permitting).

12/10: Collaborative Cosmopolitainism

(1) Fuyuki Kurasawa, The Work of Global Justice chs.3-4 on Atrocities Prevention and Aid (eres)

(2) Discussion: Just Development and management of the world economic order.

12/13: Final class in lieu of exam [time TBA]

(1) Conclusion.

(2) Final essays due.