

Righting wrongs or wronging rights? Human rights and its discontents

Instructor: Dr Chenchen Zhang (cz@ifs.ku.dk)

Time and location: Monday 15:00 – 17:00; Thursday 13:00 – 15:00, CSS 2-1-49.

Introduction: Few norms, discourses or ideologies have triumphed more quickly and universally than that of human rights in the 20th century. On the one hand, it has undoubtedly become one of the most powerful languages employed by the oppressed and the rightless to claim equality, rights and justice. On the other hand, controversies, criticisms and resistance have always accompanied the various facets of the human rights project: its philosophical foundations, the regime and the practice. Is the idea of human rights bound to either emancipation or domination? Is the ‘bottom-up’ movement a better approach to human rights than the ‘top-down’ intervention? Are those critiques of human rights referring to imposing the ideology of ‘the rich on the poor’ or the tendency of victimization merely based on the coincidental abuse of an essentially good idea by hegemonic powers, or, are they rooted in the contested nature of the idea itself? This course will provide an overview of the topic as discussed in political theory and international relations, with a focus on the paradoxes and ambiguities involved in both philosophy and practice. We will start with a brief introduction on the intellectual resources of human rights and the institutional architecture of the international human rights regime, before we move on to explore the critiques of human rights in political theory. In the second part of course, we will focus on key contemporary issues in the global politics of human rights such as humanitarian intervention and the Responsibility to Protect, border politics and refugee protection, and fundamental rights in the EU. Class discussions are based on a variety of materials including academic literature, movies, posters, and campaign videos.

Requirements:

It is mandatory to read all assigned readings (those marked as ‘optional’ not included) before each class. Please bring to class either a hard copy or an electronic version of the texts. It is also advisable to bring with you a short summary and several questions about each reading. This course has a written exam (free assignment).

1. Introduction

Required readings:

- Dembour, M.-B. (2010). What Are Human Rights? Four Schools of Thought. *Human Rights Quarterly*, 32, 1, 1-20.
- Douzinas, C. (2007). *Human rights and empire: the political philosophy of cosmopolitanism*. London; New York: Routledge-Cavendish. (Chapter 1)
- Brown, W. (2004). “The Most We Can Hope For...”: Human Rights and the Politics of Fatalism. *South Atlantic Quarterly*, 103(2-3), 451–463.

Optional readings:

- Donnelly, J. (2011). The social construction of international human rights (EN INGLÉS | ENGLISH). *Relaciones internacionales*, (17).

2. The 'Rights of Man' before human rights

- Moyn, S. (2010). *The last utopia: human rights in history*. Cambridge, Mass.: Belknap Press of Harvard University Press. (Chapter 1)
- Kant, I. ([1795]2006). *Toward Perpetual Peace: A Philosophical Sketch*. In P. Kleingeld (Eds.), *Toward perpetual peace and other writings on politics, peace and history*. New Haven and London: Yale University Press.
- Feser, E. (2012). The metaphysical foundations of natural rights. In T. Cushman (Eds.), *Handbook of Human Rights*. London; New York: Routledge.

Optional Readings:

- Brett, A. S. (2003). The development of the idea of citizens' rights. In Q. Skinner & B. Stråth (Eds.), *States and citizens: history, theory, prospects* (pp. 97–115). Cambridge: Cambridge University Press.
- Fine, R. (2012). Cosmopolitanism and Human Rights. T. Cushman (Ed.), *Handbook of Human Rights*. London; New York: Routledge.

3. The structure of international human rights law, guest lecture by Dr. Pola Cebulak (Faculty of Law, UCPH)

4. Human rights, the nation-state and sovereignty

- Arendt, H. (1949): "The Right of Man": What are They? In *Modern Review* 3, 1, pp. 24-36.
- Agamben, G. (1998). *Homo sacer*. Stanford Calif.: Stanford University Press. (pp. 126-135)

Optional:

- Benhabib, S. (2004). *The rights of others: aliens, residents, and citizens*. Cambridge University Press. (Chapter 2)
- Douzinas, C. (2007). *Human rights and empire: the political philosophy of cosmopolitanism*. London; New York: Routledge-Cavendish. (Chapter 5)

5. The poststructuralist critique of (human) rights

- Rancière, J. (2004). Who Is the Subject of the Rights of Man? *South Atlantic Quarterly*, 103(2-3), 297–310.
- McLoughlin, D. (2016). Post-Marxism and the Politics of Human Rights: Lefort, Badiou, Agamben, Rancière. *Law and Critique*, 27(3), 303-321.
- Žižek, Slavoj (2005) 'Against Human Rights', *New Left Review* 34.

Optional:

- Schaap, A. (2011). Enacting the right to have rights: Jacques Ranciere's critique of Hannah Arendt. *European Journal of Political Theory*, 10(1), 22–45.

Student Presentation:

- Group 1: The sans-papier movement in France

6. The postcolonial critique of (human) rights

- Kapur, Ratna (2006): Human Rights in the 21st Century: Take a Walk on the Dark Side. In: *The Sydney Law Review* 28, 4, pp. 665-688.
- Baxi, U. (2002). *The future of human rights*. New Delhi: Oxford University Press. (Chapter 5)

Optional:

- Spivak, G. C. (2004). Righting wrongs. *South Atlantic Quarterly*, 92(10), 16–7.
- Wall, I. (2012). *Human rights and constituent power: without model or warranty*. Abingdon Oxon; New York: Routledge. (Chapter 2)

Student Presentation:

- Group 2: ECHR rulings on the hijab and burka ban

7. Questioning universality

- Brown, C. (1997). Universal human rights: A critique. *The International Journal of Human Rights*, 1:2, 41-65.
- Freeman, M. (1998). Universalism, communitarianism and human rights: A reply to Chris Brown. *The International Journal of Human Rights*, 2:1, 79-92
- An-Na'im, A. (2000). Islam and Human Rights: Beyond the Universality Debate. In *Proceedings of the Annual Meeting (American Society of International Law)* Vol. 94, pp. 95-103

Optional:

- Chandler, D. (2001). Universal Ethics and Elite Politics: The Limits of Normative Human Rights Theory. *The International Journal of Human Rights*, 5(4), 72–89.
- Davis, M. C. (2010). The political economy and culture of human rights in East Asia. In S. Joseph & A. McBeth (Eds.), *Research Handbook on International Human Rights Law* (pp. 414–439). Cheltenham: Edward Elgar.

Student Presentation:

- Group 3: Female Imams in Denmark and Muslim feminism

8. Humanitarian intervention and the Responsibility to Protect

- Stahn, C. (2007). Responsibility to Protect: Political Rhetoric or Emerging Legal Norm? *The American Journal of International Law*, 101(1), 99–120.
- Chandler, D. (2012). Understanding the gap between the promise and reality of the responsibility to protect. In P. Cunliffe (Ed.), *Critical Perspectives on the Responsibility to Protect* (pp. 19–34). New York: Routledge.
- Chesterman, S. (2012). Violence in the name of human rights. In Gearty, C. A., & Douzinas, C. (Eds) *The Cambridge companion to human rights law*. Cambridge; New York: Cambridge University Press.

Optional:

- Chandler, D. (2004). The responsibility to protect? Imposing the 'Liberal Peace', *International Peacekeeping*, 11:1, 59-81.
- Amnéus, D. (2012). Responsibility to Protect: Emerging Rules on Humanitarian Intervention? *Global Society*, 26(2), 241–276.

Student presentation:

- Group 4: The discourse and practice of R2P in Libya
- Group 5: The discourse and practice of R2P in Syria

9. Workshop on academic writing and the final assignment

10. Border security and the rights of migrants and refugees

- Dembour, M.-B., & Kelly, T. (2013). Introduction. In M.-B. Dembour & T. Kelly (Eds.), *Are human rights for migrants? Critical Reflections on the Status of Irregular Migrants in Europe and the United States* (pp. 1–21). New York: Routledge.
- Cornelisse, G. (2010). *Immigration detention and human rights: rethinking territorial sovereignty*. Leiden: BRILL. (Chapter 3.4)

Optional:

- Devetak, R. (2004). In fear of refugees: the politics of Border Protection in Australia. *The International Journal of Human Rights*, 8(1), 101–109.
- Aradau, C. (2004). The Perverse Politics of Four-Letter Words: Risk and Pity in the Securitisation of Human Trafficking. *Millennium - Journal of International Studies*, 33(2), 251–277.

Student Presentation:

- Group 6: The “Convention debate” in Denmark and the new regulation regarding refugees and asylum seekers

11. Human rights, social movement, and transnational advocacy

- Stammers, N. (1999). Social movements and the social construction of human rights. *Human Rights Quarterly*, 21(4), 980-1008.
- Keck, M. E., & Sikkink, K. (1999). Transnational advocacy networks in international and regional politics. *International Social Science Journal*, 51(159), 89-101.
- Sargent, S. (2012). Transnational networks and United Nations human rights structural change: the future of indigenous and minority rights. *The International Journal of Human Rights*, 16(1), 123–151.

Optional:

- Mertus, J. (2007). The rejection of human rights framings: The case of LGBT advocacy in the US. *Human Rights Quarterly*, 29(4), 1036-1064.
- Rodio, E. B., & Schmitz, H. P. (2010). Beyond Norms and Interests: Understanding the Evolution of Transnational Human Rights Activism. *The International Journal of Human Rights*, 14, 3, 442-459.

Student Presentation:

- Group 7: Amnesty International and SOS Europe
- Group 8: Abahlali baseMjondolo (Durban shack dwellers’ movement)

12. Humanitarian government

- Fassin, D. (2007). Humanitarianism as a Politics of Life. *Public Culture*, 19(3), 499–520.
- Käpylä, J., & Kennedy, D. (2014). *Cruel to care? Investigating the governance of compassion in the humanitarian imaginary. International Theory* (Vol. 6, pp. 255–292).
- Walters, W. (2011). Foucault and Frontiers: Notes on the Birth of the Humanitarian Border. In U. Bröckling, S. Krasmann, & T. Lemke (Eds.), *Governmentality: current issues and future challenges* (pp. 138–164). New York: Routledge.

Optional:

- Vaughan-Williams, N. (2015). “We are not animals!” Humanitarian border security and zoopolitical spaces in EUrope. *Political Geography*, 45, 1–10.
- Pallister-Wilkins, P. (2015). The Humanitarian Politics of European Border Policing: Frontex and Border Police in Evros. *International Political Sociology*, 9(1), 53–69.

13. Fundamental rights and freedom of movement in the EU

- Kostakopoulou, D. (2005). Ideas, Norms and European Citizenship: Explaining Institutional Change. *The Modern Law Review*, 68(2), 233–267.
- Weiler, J. H. H. Fundamental human rights as an exception to the freedom of movement of goods. *Jean Monnet Working Paper 06/04*.
- Iglesias Sánchez, S. (2014). Fundamental Rights and Citizenship of the Union at a Crossroads: A Promising Alliance or a Dangerous Liaison? *European Law Journal*, 20(4), 464–481.

Cases:

- C-112/00 Eugen Schmidberger v. Austria [2003] ECR I-5659
- C-341/05 Laval Un Partneri Ltd v Svenska Byggnadsarbetareförbundet [2008] IRLR 160

14. Conclusions and Q&As