

# LA962-20 Theories and Histories of Human Rights

**21/22**

**Department**

School of Law

**Level**

Taught Postgraduate Level

**Module leader**

Raza Saeed

**Credit value**

20

**Module duration**

8 weeks

**Assessment**

100% coursework

**Study location**

University of Warwick main campus, Coventry

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## Description

### Introductory description

What do we understand by 'Human Rights', as well as its associated (sub)categories of 'human' and 'rights'? Are rights absolute or is their provision and protection based on specific historical and political contexts? Is it possible and desirable to identify a core of universal human rights, or should they be considered relative? Are the problems and challenges faced by human rights discourse a consequence of inadequate implementation, or do these issues emerge from the way we understand human rights? And, if it is the latter, are there any other ways to conceptualise human rights?

This module looks at theories and histories of human rights to shed light on these and other such debates. By adopting an interdisciplinary approach and borrowing insights from legal theory, political science, philosophy and socio-legal studies, the module offers a contextual approach to human rights rather than a purely legalistic one. The main aim is to encourage the students to critically analyse the concepts, regimes, instruments, institutions and practices of human rights. The module will also highlight the successes, challenges, possibilities and paradoxes of human rights discourse and the international human rights regime. The module will ground these discussions in important topical phenomena by analysing issues surrounding globalisation, terrorism, humanitarian intervention, and socio-economic inequalities, among others.

## **Module aims**

The module aims to develop:

A contextual and analytical lens to engage with the human rights discourse.

Knowledge of the human rights discourse and the international human rights regime, as well as some of their key successes, deficiencies and challenges.

An understanding of the legal, political, social and economic dimensions of human rights.

Knowledge of debates around topical human rights issues, using historical and theoretical approaches as analytical tools.

## **Outline syllabus**

This is an indicative module outline only to give an indication of the sort of topics that may be covered. Actual sessions held may differ.

The module will broadly include the following topics, but changes will be made every year to engage with current debates and topical issues:

Introduction to Human Rights discourse

The foundations of Human Rights Law

Human Rights and Conceptual Precedents

'Histories' of Human Rights

Conceptual and Practical Challenges to Human Rights

Topical Case Studies

## **Learning outcomes**

By the end of the module, students should be able to:

- Demonstrate an in-depth understanding of the current debates involving human rights and their theoretical and historical aspects.
- Examine and understand legal, political, philosophical and historical materials on issues of human rights.
- Demonstrate an ability to work effectively in groups to examine specific topics related to the module
- Demonstrate an advanced ability to deliver effective oral presentation.
- Demonstrate an advanced ability to assess critically the current debates involving human rights and the underlying theoretical and historical aspects of these debates.
- Demonstrate high quality research, interpretation and drafting skills in relation to issues involving human rights.

## **Indicative reading list**

James Griffin. "First Steps in an Account of Human Rights", *European Journal of Philosophy*, 9:3,

pp. 306-327

James Nickel, Human Rights, Stanford Encyclopaedia of Philosophy,

<http://plato.stanford.edu/entries/rights-human/>

Dembour, Marie-Bénédicte (2010) "What Are Human Rights? Four Schools of Thought" *Human Rights Quarterly* 32:1 1-20

Ishay, Micheline (2004) "What are human rights? Six Historical Controversies" *Journal of Human Rights* 3:3 359-371

Amartya Sen (2004) "Elements of a Theory of Human Rights" *Philosophy & Public Affairs* 32:4 315–356

Ronald Dworkin (1977), *Taking Rights Seriously* (Duckworth: London), chapter 7

Moyn, Samuel (2010) *The Last Utopia: Human Rights in History* (Princeton University Press: Princeton), chapter 3

John Tassioulas. *Towards a Philosophy of Human Rights*, *Current Legal Problems* (2012)

Ronald Dworkin (1997), *In Praise of Theory*, 29 *Ariz. St. L.J.* 353

Norberto Bobbio (1996), *The Age of Rights*, chapters 1 and 2.

Ishay, Micheline (2004) "What are human rights? Six Historical Controversies" *Journal of Human Rights* 3:3, 359-371

Jeremy Waldron, 'Rights in Conflict' *Ethics*, 99 (1989), 503-19, reprinted in *Liberal. Rights: Collected Papers 1981-91* (Cambridge: Cambridge University Press).

Maurice Cranston, *Are there any human rights?*, *Daedalus*, 112, v.4, 1983;

Henry Shue, *The Interdependence of Duties*, in Alston and Tomasevski (eds), *The Right to Food*, 1985.

David Bilchitz. *Giving Socio-Economic Rights Teeth: The Minimum Core and Its Importance* [notes] *South African Law Journal*, Vol. 119, Issue 3 (2002), pp. 484-501

Ronald, Dworkin. *Do Liberty and Equality Conflict?*, in Paul Baker (ed), *Living as Equals*, OUP.

Nagel and Murphy. *The Myth of Ownership. Taxes and Justice*. OUP, 2002, especially chapter 3.

O. Ferraz. *Poverty and Human Rights*. *Oxford J Legal Studies* (2008) 28 (3): 585-603.

Robert Alexy, 'Balancing, Constitutional Review, and Representation', *Int J Constitutional Law* (October 2005) 3(4): 572-581.

David Luban, "Eight Fallacies about Liberty and Security" in Wilson, Richard. (ed) *Human Rights* in

the 'War on Terror', Cambridge University Press, 2005

Virgilio A. Silva (2011), "Comparing the Incommensurable: Constitutional Principles, Balancing and Rational Decision", *Oxford Journal of Legal Studies* Vol.31, No. 2 (2011), pp. 273–301

Kennedy, David W. "The International Human Rights Movement: Part of the Problem?" 15 *Harvard Human Rights Journal* 99 (2001) Onora O'Neill, *The Dark Side of Human Rights*,

<http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/Blanket%20File%20Import>

## **Subject specific skills**

Subject knowledge and understanding

Demonstrate an in-depth understanding of the current debates involving human rights and their theoretical and historical aspects.

Examine and understand legal, political, philosophical and historical materials on issues of human rights.

## Cognitive Skills

Demonstrate an advanced ability to assess critically the current debates involving human rights and the underlying theoretical and historical aspects of these debates.

## Subject-Specific/Professional Skills

Demonstrate high quality research, interpretation and drafting skills in relation to issues involving human rights.

## Transferable skills

### Key Skills

Demonstrate an ability to work effectively in groups to examine specific topics related to the module

Demonstrate an advanced ability to deliver effective oral presentation.

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## Study

### Study time

| Type                          | Required                  |
|-------------------------------|---------------------------|
| Tutorials                     | 8 sessions of 1 hour (4%) |
| Online learning (independent) | 8 sessions of 1 hour (4%) |
| Private study                 | 184 hours (92%)           |
| Total                         | 200 hours                 |

### Private study description

No private study requirements defined for this module.

### Other activity description

Consultation

### Costs

No further costs have been identified for this module.

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## Assessment

You must pass all assessment components to pass the module.

Students can register for this module without taking any assessment.

## Assessment group A1

|                                       | Weighting | Study time |
|---------------------------------------|-----------|------------|
| Assessed Essay<br>A 4,000 word essay. | 100%      |            |

## Feedback on assessment

Formal written feedback via Tabula and informal discussions.

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## Availability

### Courses

This module is Optional for:

- Year 1 of TLAS-M1M2 LLM International Development Law and Human Rights
- Year 1 of TIMA-L981 Postgraduate Social Science Research
- Year 1 of TLAA-M3PJ Postgraduate Taught Advanced Legal Studies

This module is Option list C for:

- TPOS-M9PE Double MA in Politics and International Studies (with NTU Singapore)
  - Year 1 of M91F Globalisation and Development (Double Degree - NTU)
  - Year 1 of M91L International Development (Double Degree - NTU)
  - Year 1 of M91B International Political Economy (Double Degree - NTU)
  - Year 1 of M91C International Politics and East Asia (Double Degree - NTU)
  - Year 1 of M91D International Politics and Europe (Double Degree - NTU)
  - Year 1 of M91G International Security (Double Degree - NTU)
  - Year 1 of M91K Political and Legal Theory (Double Degree - NTU)
  - Year 1 of M91J United States Foreign Policy (Double Degree - NTU)
  - Year 2 of M91L International Development (Double Degree - NTU)
  - Year 2 of M91B International Political Economy (Double Degree - NTU)
  - Year 2 of M91C International Politics and East Asia (Double Degree - NTU)
- TPOS-M9PP Double MA in Politics and International Studies (with Universität Konstanz, Germany)
  - Year 1 of M92L International Development (Double Degree - Konstanz)
  - Year 1 of M92B International Political Economy (Double Degree - Konstanz)
  - Year 1 of M92C International Politics and East Asia (Double Degree - Konstanz)
  - Year 1 of M92D International Politics and Europe (Double Degree - Konstanz)
  - Year 1 of M92E International Relations (Double Degree - Konstanz)

- Year 1 of M92G International Security (Double Degree - Konstanz)
- Year 1 of M92K Political and Legal Theory (Double Degree - Konstanz)
- Year 1 of M92H Public Policy (Double Degree - Konstanz)
- Year 2 of M92B International Political Economy (Double Degree - Konstanz)
- Year 2 of M92C International Politics and East Asia (Double Degree - Konstanz)
- Year 2 of M92D International Politics and Europe (Double Degree - Konstanz)
- Year 2 of M92E International Relations (Double Degree - Konstanz)
- Year 2 of M92G International Security (Double Degree - Konstanz)
- Year 2 of M92K Political and Legal Theory (Double Degree - Konstanz)
- Year 2 of M92H Public Policy (Double Degree - Konstanz)
- Year 2 of TPOS-M9PT MA in International Development
- Year 2 of TPOS-M1P8 Postgraduate Taught International Politics and East Asia
- Year 2 of TPOS-M9PS Postgraduate Taught Political and Legal Theory
- Year 2 of TPOS-M9PQ Postgraduate Taught United States Foreign Policy