PHIL/SEMN-215: Human Rights and International Law (Spring 2018)

Professor: Dr. Max Cherem  E-mail: Max.Cherem@kzoo.edu
Schedule: M/W/F 9.40-10.55, UL#302  Office hours: T&TH, 9.30-11.30 (arrive by 11.15), HH #202

Course Description: People often invoke human rights and international law in debates. But, these are highly contested concepts with a multitude of possible meanings. This course introduces some theoretical clarity with respect to the conceptual grounding, history, and contemporary practice of human rights. Our focus will be on different philosophical theories of human rights, with secondary attention to international human rights law. We start with an orientation on human rights practice and try to move past some of the so-called “challenges” to human rights. This is followed by a look at the main contemporary approaches for conceptualizing human rights: the basic human-interest approach, the capabilities approach, and the newer “political” approach (among others). We will spend a few weeks on various debates in the human rights literature as well: Whether there is such a thing as “group rights”, whether and how there is a distinction between civil and political human rights versus social and economic human rights, when human rights violations may trigger external intervention by the international community, etc.

General objectives: (1) Further develop critical thinking, argumentation and writing skills with respect to main theories of human rights. (2) Understand the basic elements of the main theories of human rights and international human rights law as well as how they work (or are supposed to work) before attempting to criticize them. (3) Engage in lively yet respectful debate about human rights and the status of international human rights law. (4) Clearly understand the challenges posed to human rights by: different forms of skepticism and relativism, worries about the “inflation” of human rights language, and the complexities of international humanitarian intervention. (5) To be able to articulate responses to such challenges. (6) Form a defensible position with regard to the purported differences between civil and political rights and social and economic rights. (7) Charitably understand disagreements about human rights and the status of human rights in differing frameworks of international law regardless of one’s own views.

Your expectations: This syllabus lets you know my expectations. But, I am also interested in knowing about you and what your expectations for class are. Please take a moment to fill out the note card on your desk with the following:
(1.) Name, year, major (if known) and relevant interests—academic or otherwise.
(2.) Prior experience in philosophy, political science, formal logic, mock trial, pre-law or debate (if any).
(3.) (Most importantly) Your expectations for what you want out of this class.

Grading breakdown:
- Participation and attendance: 15%
- 2 short summaries (550 words or less each) throughout the term: 20% (each worth 10%)
- “Optional” reading response (due any time during term, or with final paper): 5%
- Structured reflection assignment (due along with final paper): 5%
- Midterm paper: 25%
- Final paper: 30%

Participation & Attendance: jointly make up 15% of your grade. Attendance is a necessary yet not sufficient condition for participation (you can’t participate unless you attend, but attending doesn’t mean you are participating). If you miss 3 days without extenuating, documented reasons you will automatically loose this 15%. Think about it: class runs for 10 weeks, 3 times a week. Missing 3 days is 10% of the class! Not only are you missing out on material, you are potentially taking opportunities away from peers (if you don’t know the material, then that is 1 less person who may make an insightful contribution in class or with whom a peer can talk in order to come to a better understanding). E-mail me if you miss class. Even if you miss 3 classes unexcused you should continue attending, as there is no realistic way to do well on written assignments without attending discussion and lecture. As for participation: you need to be an active participant to get full participation (contribute to in-class discussion, answer questions, respectfully critique / respond to / build on points made by authors or peers, etc). This means you should always come to class having carefully and thoroughly read the readings. Apart from lecture we will use structured questions and class discussion to analyze the readings; both methods require familiarity with the text and active questioning based on that familiarity.

2 short summaries: You are responsible for 2 short summary pieces (550 words or less). These are graded with letter grades and will receive written comments. I’ll ask you to summarize a certain issue from the readings. I’m looking to see that you can clearly and accurately represent a position. Topics are assigned as we go along. There will be 3 opportunities for you to write a short summary but you only need to complete 2. You may attempt all 3 and take the highest 2 grades (but the 3rd attempt won’t get written comments).
**Midterm & final papers:** For the midterm and the final I usually provide 2 topics to choose from. You’ll receive these assignments via email. I’m happy to verbally discuss your ideas before you turn in an assignment during office hours. I do not review written drafts ahead of time. This is for a variety of pedagogical reasons largely related to trying to create fair terms of evaluation vis-à-vis your peers. READ THE JIM PRYOR ESSAY (see writing section; assigned 1st day).

**1 brief “optional” reading response:** for most weeks we will have optional readings (contained in your coursepack or books) that are related to the issues we are talking about. So, 99% of these readings are indeed optional. But, you are required to choose 1 throughout the quarter to read and respond to (You can even choose a reading in the coursepack that is not mentioned on the syllabus). The parameters of this assignment are quite open: you should (briefly) explain why you find the reading interesting, summarize the reading, and then identify 1 or more questions, criticisms, or areas of further investigation that you have after reading it. The response should be between 1 and 2 pages. The purpose of this assignment is to invite you to see that, just like with any other class, we are only beginning to scratch the surface of a huge body of knowledge in 10 weeks. I hope you find a topic that really interests you and that this perhaps motivates you to continue independent study, reading, or other initiatives outside of both class and college—in the form of service learning, volunteer work, an internship, independent reading, applying to professional or graduate school, etc. Oh, despite the fact that this assignment is quite open in terms of structure, it shouldn’t be viewed as a blow-off assignment. It accounts for 5% of your grade so please take it seriously. This will not receive comments.

**Writing:** Philosophical writing and thinking are different from the writing and thinking you do for other classes. Philosophical writing focuses on clarity, succinctness, and the construction of sound arguments. It is similar to the type of writing and thinking that you would encounter as a law student. For guidance, please read Jim Pryor’s online essay “How to Write a Philosophy Paper”. When writing you need to express yourself very clearly, as I can only grade what you write on the page. Even if you know a theory or argument well in your head, I can only grade what you write (there is no way to evaluate what someone intends to write but fails to clearly express). Philosophical thinking is concerned with the argumentative clarity, coherence, and defensibility of a particular position. You will be graded on how well you defend your views (whatever they are) not the particular view / position you take. That being said, there are better and worse ways to construct arguments, so please read the Pryor essay (be forewarned: his tone / writing style can be annoying): http://www.jimpryor.net/teaching/guidelines/writing.html. As a helpful rule, you might keep in mind a quote by the philosopher John Searle: “In general, I feel if you can't say it clearly you don’t understand it yourself”. I can only grade what you write. Make sure you write what you mean and that you do so clearly. One way to do this is to let a friend read your writing and see if they understand it. You can also set up an appointment at the writing center. But, keep in mind that it is not a “1-stop shop” that will simply fix all the mistakes in an assignment for you so you can get a better grade. The center’s main purpose is to help develop writing skills by giving sustained feedback over the course of 4 years. I write fairly detailed comments on each paper so as to explain why you have earned a certain grade. Comments are meant to help you identify your strengths and weaknesses and to do better on the next paper. If you ever feel that my comments show that I have misunderstood what you wrote then please meet with me and we’ll go over the paper.

**Reading:** This course has difficult reading. Read the readings before class on the day for which they are listed below (except the 1st day). You will need to thoroughly and carefully read (not skim) all assigned readings. You will need to read some assignments 2 or 3 times to fully understand them. Many students find that philosophy texts take more time to read than other types of texts. I do not want anyone to fall behind, so please make sure you set aside enough time in your spring schedule to properly do the readings. Always come to office hours to discuss issues you don’t understand.

**Questions to aid reading and discussion:** 1-2 times a week I email questions that go with the readings for our next meeting. These will be emailed 12-24 hours in advance of class. You should do the reading even if you do not yet have the questions (you will not receive them for every session). You should merely view them as something extra provided as an aid for your understanding (finding the answers to them is absolutely not a substitute for reading closely and carefully). Even when we do use these questions in class we will not get to every question. I encourage you to think about questions we do not get to and re-read the material with them in mind. Doing so will help you on assignments.

**Plagiarism and academic integrity:** I do not tolerate plagiarism or other violations of academic integrity. Any instance of plagiarism (no matter how small or unintentional) will automatically result in at least a failure of the assignment (depending on the assignment and your past performance this may result in failure of the course) and will be reported to the dean of student affairs. It is your responsibility to familiarize yourself with the college’s policies. For the college policies on plagiarism and academic integrity see: https://reason.kzoo.edu/studev/stuconduct/ (especially, but not only,
art.1, sect.17 & 18 and art. 3, B1) and https://reason.kzoo.edu/studev/policies/dishonest/. If, after reading the college policies, you have questions about what constitutes either plagiarism or academic integrity then please ask.

Turning in work: Assignments are counted down 1/3 of a grade (A to A-) for each day (or part of a day) they are late. You will receive assignments via email. The due date/time and hand-in procedure will be in the email attachment.

Extensions: will not normally be granted. However, please let me know if you feel there are extenuating circumstances that merit an extension (death in the family, documented illness, documented accommodation, etc).

Accommodations: If you need accommodations (due to learning, physical, emotional or other disabilities) let me know in the 1st week so we can start certifying the accommodation; policy: http://reason.kzoo.edu/studev/disabilities/

Laptops & phones: This class requires engaged discussion. A distraction-free environment where people can focus on the material is crucial. Because laptops produce a variety of distractions (email, Facebook, E-bay, etc) they are not allowed. Turn off or silence your phones before class. Do not text during class.

Required Texts:
- Coursepack (CP) with all other readings (bookstore). **NOTE:** All coursepack readings are alphabetized by author last name. **BUT,** readings from “Steiner, Alston and Goodman” (SAG) are at the end of the coursepack as they are from a compilation of excerpts from texts that come from multiple sources and authors. The page numbers after these entries refer to the original page numbers.

**Week 1: General introduction to human rights.**

**Monday, April 2nd**
Reading: CP: SAG, Chapter 1, part A “Human Rights Concepts and Discourse” (1-17) [in class]

**Wednesday, April 4th**
Reading: Nickel, Introduction & Chapter 1 (1-21) AND Donnelly, Introduction & Chapter 1 (1-21)

**Friday, April 6th** **NOTE:** Pick up handout for next time!
Reading: Nickel, Chapters 2 & 3 (22-52) AND Donnelly, Chapters 2 & 3 (22-53) [NOTE: super-hard reading for Mon]

**Week 2: General introduction to ‘the basics’ of human rights continued.**

**Monday, April 9th** “Equality is a tricky concept. What is its scope? Global? Relative to a social/relationai context?”
**NOTE:** The Anderson reading is a classic in political philosophy but difficult. Read it carefully and thoroughly.

Optional Reading: CP: Beitz, “What Human Rights Mean”

**Wednesday, April 11th** “A Classic ‘Basic Human interests’ Approach to HR.”
Reading: CP: Shue, “Security and Subsistence” AND “Correlative Duties”

**Friday, April 13th** Different opinions on: (a) what counts as an HR violation, (b) domestic-international interaction
Reading: CP: SAG, Chapter 1, part B “The Global Framework for Contemporary HR Discourse: Capital Punishment, Interactions Among States, Exceptionalism” (18-41) AND SAG Chapter 1, part B “Should National Courts Look to Foreign Decisions and International Law About HR Even When Not Formally Bound?” (42-57) **NOTE:** everything after page 17 is “part B” despite typos that say “part A” at the top.
Assignment: Short summary option assigned via email (due date in email—due in about a week).

**Week 3: Worries about human rights?: mistakes of relativism, clarifying rights rhetoric, special rights & FGM**

**Monday, April 16th** “Why relativism about HR doesn’t work as a critique” **NOTE:** Pick up handout for next time!
Reading: Beitz, Chapter 1, AND CP: Teson, “Intr’n’l Human Rights & Cultural Relativism” AND Nickel, Chapter 11

**Wednesday, April 18th** “Human Rights & Humanitarianism are different” **NOTE:** Pick up handout for next time!
Reading: Leebaw, “The Politics of Impartial Activism” (Handout) AND Donnelly, Chapter 6 (89-106)

Optional Reading: CP: SAG “Rights or Duties as Organizing Concepts” (484-95) & Waldron “Right to Do Wrong”
Friday, April 20th
Reading: **CP**: SAG “Women’s Rights and CEDAW” AND “Views of Commentators About Female Genital Mutilation” (175-176, 179-191 & 546-564) AND Tamir, “Hands Off” (Handout)
Optional Reading: Ahmadu, “Rites & Wrongs: An In/Outsider Reflects on Power & Excision” (copies on request).

**Week 4: Beginning the philosophy of human rights.**
Monday, April 23rd
Reading: Beitz, Chapters 3 & 4 AND Nickel, Chapter 4 (53-70)

Wednesday, April 25th
Reading: Nickel, Chapter 5 & 6 AND Donnelly, Chapter 11.
Assignment: Midterm assigned via email (due date in email—likely in about 7 days)

Friday, April 27th
Reading: **CP**: Pogge, “How Should Human Rights be Conceived?”

**Week 5: Philosophy of human rights.**
Monday, April 30th
Reading: CP: Nussbaum, “Capabilities and Human Rights

Wednesday, May 2nd
Reading: **CP**: Hart, “Are There Any Natural Rights?” AND **CP**: Cranston, “Human Rights—Real and Supposed”

Friday, May 4th
Reading: **CP**: Feinberg, “The Nature and Value of Rights”
Optional Reading: Freeman, “The Philosophical Foundations of Human Rights”
Assignment: Short summary assigned via email (due date in email—due in about a week).

**Week 6: Finishing with rights frameworks, starting the issue of “group rights”.**
Monday, May 7th
Reading: Donnelly, Chapter 12 (204-224) AND Nickel, Chapter 10 (154-167).

Wednesday, May 9th
Reading: **CP**: Kymlicka, “The Good, the Bad, and the Intolerable: Minority Group Rights” AND **CP**: Kukathas, “Are there any Cultural Rights?” (☞ We might cut this, see email) NOTE: Pick up the Tamir handout for next time.

Friday, May 11th
Reading: Tamir, Yael, “Against Collective Rights” (Handout)

**Week 7: Civil and political rights vs. social, cultural and economic rights**
Monday, May 14th
Reading: **CP**: SAG, “Civil and Political Rights” and “Economic and Social Rights” (151-155 & 263-277) AND Nickel, Chapters 8 & 9 (123-153) AND review the Nickel, Appendices 3 & 4 (211-242)

Wednesday, May 16th

Friday, May 18th
Reading: **CP**: Pogge, “The Role of International Law in Reproducing Massive Poverty”

**Week 8: A Start to human rights issues in international law**
Monday, May 21st
Reading: Donnelly, Chapters 8, 9, & 10 (127-184)

Wednesday, May 23rd
Reading: **CP** SAG “Vertical Interpenetration: Intnl HR Law in States’ Legal & Political Orders” (1088-1155)
NOTE: This reading may be cut down. If so, I’ll indicate the reduced page numbers in the prior class.

Friday, May 25th
Reading: **CP**: SAG “Horizontal Interpenetration: Trans’n’l Influence & Enforcement of HR” (1156-1181, 1205-1211).

**Assignment**: Short summary option assigned via email (due date in email).

**Week 9**: “Socialization” of international law into domestic law, Starting intervention.

**Monday, May 28th** NO CLASSES (Memorial Day)

**Wednesday, May 30th**

Reading: Risse & Sikkink, “Socialization of international Human Rights Norms into Domestic Practices”

Friday, June 1st

Reading: Donnelly. Chapter 14 (243-260) **AND CP**: Holsgreve, “The Humanitarian Intervention Debate”

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**Week 10**: Humanitarian Intervention

**Monday, June 4th**

Reading: **CP**: Teson, “The liberal case for Humanitarian Intervention”


**Wednesday, June 6th**

Reading: **CP**: Franck, “Humanitarian Intervention” **AND CP**: Zolo, “Humanitarian Militarism?”

Friday, June 8th Because of DOGL, I have inserted this “cushion day” in the syllabus. When DOGL occurs, move every subsequent reading down in the syllabus (thereby filling this session).