

## **Human Rights and International Order**

**Professor Liav Orgad**

Spring 2021

18-19/04, 25-26/04  
17:30-22:30

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### **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 course 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, minority and majority rights, self-determination, the Covid-19 pandemic, racial discrimination, global inequality, populism, #MeToo, animal rights, and environmental rights. 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 concepts such as “intent” and “free will,” and conceptualize institutions such as citizenship, state, and the family unit. How might human rights look like in the future: will the defining topics be politically oppressed and marginal communities or rather robot rights, data protection, and digital identity?

## 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 bibliography) and should focus on one of the course subject matters (or other related topics). It should include a research question, literature review, and a thesis. Students must send to the TA the chosen topic (according to the instructions TBA) and an abstract no later than *May 5, 2021*. 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 the final paper no later than 23:59 (11:59pm) on *June 10, 2021*.

**Grade:** Final paper: 100%.

A bonus (up to 5%) may be granted for constructive contribution in class.

## SECTION I: THE HUMAN RIGHTS REVOLUTION

### TOPIC 1: **Evolution and Theory**

1. Charles R. Beitz, *The Idea of Human Rights*, Oxford University Press, 2011, 14-47.
2. H.L.A Hart, "Are There Any Natural Rights?" *Philosophical Review* 64(2) (1955): 175-191.
3. Thomas M. Franck, "Are Human Rights Universal?" *Foreign Affairs* 80(1) (2001): 191-204.
4. James Nickel, *Making Sense of Human Rights*, New Jersey: John Wiley and Sons Ltd., 2006, 7-21.

### TOPIC 2: **Legalization, Politicization, and Internationalization**

1. Hannah Arendt, *The Origins of Totalitarianism*, Harcourt, Brace, Jovanovich, 1973, Ch. 9.
2. Upendra Baxi, *The Future of Human Rights*, New York: Oxford University Press, 2008, Ch. 4.
3. David P. Forsythe, *Human Rights in International Relations*, Cambridge: Cambridge University Press, 2012, 3-24.
4. Samuel Moyn, "Human Rights Are Not Enough", *The Nation*, March 2018; Eric Posner, "The Case Against Human Rights", *The Guardian*, December 4, 2014.

## SECTION II: CONTEMPORARY DILEMMAS

### **TOPIC 3: How to Govern Global Migration?**

1. Stephen Castles, “Why Migration Policies Fail,” *Ethnic and Racial Studies* 27(2) (2004): 222-227.
2. Michael W. Doyle, “The Model International Mobility Convention,” *Columbia Journal of Transnational Law* 56 (2018): 219-233.
3. Susan F. Martin, “International Migration and Global Governance,” *Global Summitry* 1(1) (2015): 64–83.
4. Amnon Rubinstein and Liav Orgad, “Global Migration Crisis,” *Justice* 62 (2018-19): 38-41.

### **TOPIC 4: Minorities, Majorities, and the Future of Peoplehood**

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.
4. Liav Orgad, “Forced to be Free: The Limits of European Tolerance,” *Harvard Human Rights Journal* 34 (2021).

### **TOPIC 5: Racial Profiling and Predictive Law Enforcement**

1. Badi Hasasi, 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. Steffen Mau, *The Metric Society: On the Quantification of the Social*, Polity: 2019, 166-170.
3. Mathias Risse and Richard Zeckhauser, “Racial Profiling,” *Philosophy and Public Affairs* 32(2) (2004): 143-162.
4. Frederick Schauer, *Profiles, Probabilities, and Stereotypes*, Cambridge: Harvard University Press, 2006, 1-25, 299-300.

#### TOPIC 6: COVID-19 Pandemic: What is the “Right” Thing to Do, and Why?

1. Jeremy Bentham, *The Principles of Morals and Legislation*, 1789, Ch. 1, 4.
2. “Solidarity and Responsibility During the Coronavirus Crisis,” *Deutscher Ethikrat* (2020): 3-4.
3. Julian Savulescu et al., “Utilitarianism and the Pandemic,” *Bioethics* 34 (2020): 620-632.
4. “The Impact of COVID-19 on Human Rights and the Rule of Law,” *Council of Europe* (2021, excerpts).

#### TOPIC 7: Global Inequality & Global Injustice

1. David Goodhart, *The Road to Somewhere: The Populist Revolt and the Future of Politics*, Hurst, 2017, 81-116.
2. Branko Milanovic, *Global Inequality: A New Approach for the Age of Globalization*, Cambridge: Harvard University Press, 2016, 10-45.
3. Ayelet Shachar, *The Birthright Lottery: Citizenship and Global Inequality*, Cambridge: Harvard University Press, 2009, 1-18.
4. “Universal Basic Incomes: Sighing for Paradise to Come”, *The Economist*, June 4, 2016.

#### TOPIC 8: Populist Challenges to Human Rights (Guest Lecture)

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. Yonatan Levi and Shai Agmon, “Beyond Culture and Economy: Israel’s Security-driven Populism,” *Contemporary Politics* (2020): 1-24.
4. Jan-Werner Müller, “False Flags: The Myth of the Nationalist Resurgence”, *Foreign Affairs*, March/April 2019.

#### TOPIC 9: #MeToo and Human Rights

1. Caroline Bettinger-Lopez and Rebecca Hughes, “Codifying #MeToo Into International Law”, *Council on Foreign Relations*, January 24, 2019.
2. Benedetta Faedi Duramy, “#MeToo and the Pursuit of Women's International Human Rights,” *University of San Francisco Law Review* 54 (2020): 244-266.

3. 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.
4. Catharine A. MacKinnon, “Where #MeToo Came From, and Where It’s Going”, *The Atlantic*, March 24, 2019.

#### TOPIC 10: **Environmental Rights (Guest Lecture)**

Reading materials TBD

### SECTION III: THE FUTURE OF HUMAN RIGHTS

#### TOPIC 11: **Animal Rights (Guest Lecture)**

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

#### TOPIC 12: **Workplace Automation, Robots, and Labor Rights (Guest Lecture)**

Reading materials TBD

#### TOPIC 13: **Human Rights and The Digital Revolution**

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

#### TOPIC 14: **Human Ratings and Social Credits**

1. Liav Orgad Wessel Reijers, and Primavera de Filippi, *The Human Metric: How Scoring is Governing Our Life* (work-in-progress, Ch. 1).

2. Liav Orgad and Wessel Reijers, “How to Make the Perfect Citizen? Lessons from China’s Model of Social Credit System,” *Vanderbilt Journal of Transnational Law* (forthcoming, 2021).
3. Daithi Mac Sithigh and Mathias Siems, “The Chinese Social Credit System: A Model for Other Countries?” *Modern Law Review* 82(6) (2019): 1034-1071.

**Useful volumes for further readings:**

1. Claudio Corradetti (ed.), *Philosophical Dimensions of Human Rights*, New York: Springer, 2012.
2. Rowan Cruft, S. Matthew Liao, and Massimo Renzo (eds.), *Philosophical Foundations of Human Rights*, Oxford: Oxford University Press, 2015.
3. Debra L. DeLaet, *The Global Struggle for Human Rights: Universal Principles in World Politics*, Cengage Learning, 2016.
4. Michael Goodhart (ed.), *Human Rights Politics and Practice*, Oxford University Press, 2016.
5. Michael Goodhart (ed.), *Human Rights Politics and Practice*, Oxford University Press, 2016.