

Syllabus: PhD Program “Global History and Governance”

History of Natural Rights, 12th-18th centuries

Instructor: Suzanne Levin

Course description:

Where do human rights come from? Though contemporary accounts often take the English or American Bills of Rights or the French Declaration of Rights as a starting point, human rights have their origins in a much longer tradition of natural rights and natural law. This graduate seminar proposes to introduce students to the key turning points in the history of natural rights, from the introduction of subjective rights in the 12th century through the Age of Democratic Revolutions. Students will learn to understand debates about rights in historical context, and the ways in which struggles for power within the Medieval Church, the arrival of Europeans in the Americas, New World slavery and 17th and 18th Century Revolutions contributed to the evolution of natural rights philosophy and in turn how that philosophy shaped political rhetoric and practice. Throughout the course, there will be a focus on the interdisciplinary scholarly debates among historians, philosophers and political scientists regarding the nature of natural rights, their European or global character, their relationship to contemporary human rights, to objective natural law discourses, to property, political sovereignty, and colonialism.

Grading:

Final grades for the course will be evaluated on the basis of attendance and active participation in discussion (20%); the presentation of one of the course readings in class (sign-ups at the first class session; 30%); and a final paper (5000-7000 words) on a topic to be confirmed with the instructor no later than session 4 (50%).

Session 1 – Introduction: From Natural Law to Natural Rights to Human Rights

Introductions

Presentation of course, syllabus, expectations and grading

Interdisciplinarity: between history, philosophy, political science and law

Natural rights or human rights?

Subjective natural rights and objective natural law

Natural rights as an expression of possessive individualism/liberalism?

Universality?

Readings:

Lynn HUNT, *Inventing Human Rights: A History*, New York, Norton, 2007, p. 15-34 (introduction)

Anthony PAGDEN, “Human Rights, Natural Rights, and Europe’s Imperial Legacy,” *Political Theory*, 31-2, Apr. 2003, p. 171-199

Primary Sources: French Declarations of Rights of 1789/1793, UN Universal Declaration of Human Rights

Session 2 – The Medieval Origins of Subjective Natural Rights

Origins: ancient or medieval?

Context: medieval jurists

Natural law, divine law and civil law

“Right reason” and human dignity

Readings:

1) Mandatory for everyone:

Brian TIERNEY, “Origins of Natural Rights Language: Texts and Contexts, 1150-1250” in *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150-1625*, Michigan/Cambridge UK, Eerdmans, 1997, p. 43-77

2) Plus one of the following options:

- Florence GAUTHIER, “Éléments d’une histoire du droit naturel : à propos de Léo Strauss, Michel Villey et Brian Tierney,” *Corpus. Revue de philosophie*, n° 64, *Le droit naturel*, 2013, p. 31-56
- Brian TIERNEY, “Villey, Ockham and the Origin of Individual Rights” in *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150-1625*, Michigan/Cambridge UK, Eerdmans, 1997, p. 13-42
- Giuseppe TOSI, “O debate sobre a gênese e a validade dos direitos naturais subjetivos : Michel Villey e Brian Tierney,” *Revista Portuguesa de Filosofia*, 75-2, 2019, p. 1067-1102

Session 3 – Is Property a Natural Right?

Early controversies: the right to subsistence and property

The case of John Locke: property and colonialism

Persistence of the right to subsistence: the example of 18th century France

Property in French Revolutionary declarations of rights

Readings:

Choose at least two of the following:

- Paul CORCORAN, “John Locke on the Possession of Land. Native Tribes vs. the ‘Principle’ of *Vacuum domicilium*,” *The European Legacy*, 23-3, May 2018, p. 225-250
- Florence GAUTHIER, “De Mably à Robespierre. De la critique de l’économique à la critique du politique” in Edward P. Thompson, Valérie Bertrand, Cynthia Bouton, Florence Gauthier et Guy Ikni, *La guerre du blé au XVIII^e siècle*, Montreuil, La Passion, 1988, (reedition, Paris, Kimé, 2019), p. 111-144
- Scott G. SWANSON, “The Medieval Foundations of John Locke’s Theory of Natural Rights: Rights of Subsistence and the Principle of Extreme Necessity,” *History of Political Thought*, 18-3, Autumn 1997, p. 399-459
- Brian TIERNEY, “Permissive Natural Law and Property: Gratian to Kant,” *Journal of the History of Ideas*, 62-3, 2001, p. 381-399

Session 4 – Resistance to Oppression

The right of resistance: natural or divine?

Who has the right to resist?

Hobbes: an epistemological break with natural rights philosophy?

Resistance and popular sovereignty

Resistance put into practice: Wars of Independence and Revolutions, 16th-18th centuries

Readings:

Choose at least two of the following:

- Micah ALPAUGH, “The Right of Resistance to Oppression: Protest and Authority in the French Revolutionary World,” *French Historical Studies*, 39-3, 2016, p. 567-598
- Yannick BOSC, “1789-1793-1795: Déclaration, Constitution et terreur de la Déclaration” dans S. Bianchi and P. Bourdin, *Révoltes et révolutions de 1773 à 1802. Europe, Russie, Amériques*, Nantes, Éditions du temps, 2004, p. 192-208
- Christophe MIQUEU, “Locke et la révolution du droit naturel à l’aube des Lumières,” *Corpus. Revue de philosophie*, n° 64, *Le droit naturel*, 2013, p. 57-74
- Patricia SHERIDAN, “Resisting the Scaffold: Self-Preservation and the Limits of Obligation in Hobbes’s *Leviathan*,” *Hobbes Studies*, 24, 2011, p. 137-157.
- Massimiliano TOMBA, “1793: The Neglected Legacy of Insurgent Universality,” *History of the Present*, 5-2, 2015, p. 109-136
- John WITTE, Jr., “Rights, Resistance, and Revolution in the Western Tradition: Early Protestant Foundations,” *Law and History Review*, 26-3, Fall 2008, p. 545-570

Session 5 – Natural Rights and Republicanism

The Pocockian Paradigm: Liberalism vs Republicanism

Is virtue incompatible with rights?

“Liberty before liberalism” (Quentin Skinner)

The problem of Early Modern “natural rights republicans”

Readings:

Choose at least two of the following:

- Marc BELISSA, “La place du droit naturel chez Mably. Éléments de débat,” *Corpus. Revue de philosophie*, n° 64, *Le droit naturel*, 2013, p. 111-128
- Christopher HAMEL, “The Republicanism of John Milton: Natural Rights, Civic Virtue and the Dignity of Man,” *History of Political Thought*, 34 (1), 2013, p. 35-65
- Christopher HAMEL, “Prendre la vertu et les droits au sérieux. L’hypothèse d’un républicanisme des droits,” *Les Études philosophiques*, 83-4, 2007, p. 499-517
- Joaquín MIRAS ALBARRÁN, “La *Res Publica*, la pensée politique de Francisco de Vitoria” in M. Belissa, Y. Bosc and F. Gauthier, *Républicanismes et droit naturel. Des humanistes aux Révolutions des droits de l’homme et du citoyen*, Paris, Kimé, 2009, p. 31-40
- John G. A. POCOCK, “Virtues, rights, and manners: A model for historians of political thought,” in *Virtue, Commerce, and History*, Cambridge, Cambridge University Press, 1985, p. 37-50
- Michael ZUCKERT, “The Natural Rights Republic” in *The Natural Rights Republic, Studies in the Foundation of the American Political Tradition*, Notre Dame (IN), University of Notre Dame Press, 1997, p. 202-244

Session 6 – Natural rights, natural law and the law of nations

What is the law of nations and how does it differ from international law?

Jus ad bellum and *jus in bello*

The law of nations and imperialism

Natural rights and the search for a perpetual peace

Slavery and abolitionism

“To be born *and remain* free”

The birth of abolitionist movements

Universal natural rights and slavery: oversight, hypocrisy or impetus to action?

The role of resistance by enslaved people

Readings:

Choose at least two of the following:

- Marc BELISSA, “Les civils dans le droit des gens et le droit de la guerre de Grotius à Rousseau” in *Expériences de la guerre et pratiques de la paix de l’Antiquité au XXe siècle*, Rennes, PUR, 2013, p. 337-346
- Robin BLACKBURN, “Haitians Claim the Rights of Man” in *The American Crucible. Slavery, Emancipation and Human Rights*, London, Verso, 2011, p. 171-219
- Laura BRACE, “Inhuman commerce: Anti-slavery and the ownership of freedom,” *European Journal of Political Theory*, 12-4, 2013, p. 466-482
- Pedro CALAFATE and Ricardo VENTURA, “The Iberian School of Peace: Natural Law and Human Dignity,” *Revista Portuguesa de Filosofia*, 75-2, 2019, p. 793-836
- Georg CAVALLAR, “Vitoria, Grotius, Pufendorf, Wolff and Vattel: Accomplices of European Colonialism or True Cosmopolitans?” *Journal of the History of International Law*, 10-2, 2008, p. 181-209

Session 7 – “Nonsense upon stilts”: natural rights rejected

Criticism of natural rights in the Age of Revolutions: traditionalism (Burke), utilitarianism (Bentham), and religion (Pie VI/J. de Maistre)

The French Constitution of the Year III and the removal of all reference to natural rights

Conclusions: Early Modern natural rights philosophy and the 20th-21st century renewal of interest in human rights — what remains?

Readings:

Choose at least two of the following:

- Yannick BOSCH, “De Thermidor à Brumaire. La victoire de ‘la vaste conspiration contre les droits naturels,’” *Corpus. Revue de philosophie*, n° 64, *Le droit naturel*, 2013, p. 149-174
- Monique COTTRET, « Les droits de l’homme en enfer » in C. Galland et M. Cottret, eds., *Les Damnés du ciel et de la terre*, Limoges, PULIM, 2010, p. 219-228

- “Human Rights against Inheritance,” “Human Rights versus Social Utility” OR “Human Rights against the Rights of God” in Justine LACROIX and Jean-Yves PRANCHÈRE, *Human Rights on Trial. A Genealogy of the Critique of Human Rights*, Cambridge, Cambridge University Press, 2018, ch. 2, 3, 4 (p. 59-90, 91-126 et 127-156)