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office hours: by appointment.

History 15503 & Human Rights 25113  
**From Natural Law to Human Rights:**  
History of the Western Natural Law and Natural Rights Traditions  
Up to the French Revolution

**Course Description:**

Although human rights issues continue to be debated and contested, the longer history of human rights is often unexamined and even forgotten. Human rights, rather than being a twentieth-century phenomenon, marks both a culmination of and a transition from the Western natural law and natural rights traditions. This lecture/discussion course will trace the changes and continuities of debates and claims about rights throughout the late medieval and early modern periods in order to explore how rights are historically asserted, justified, and defended. We will conclude with the transformation of rights—from natural to human—in relation to the American and French Revolutions. At the end of this course students will have acquired an understanding of and critical perspective on the history of rights claims that inform the human rights documents and regimes of the nineteenth and twentieth centuries.

**Course Overview:**

Throughout the course we will examine three key shifts in the natural law and natural rights traditions. We will begin to examine the shift from a dominantly theocentric idea of natural law that is characteristic of the late-medieval period to a more anthropocentric idea of Natural Law that begins to emerge with European Expansion, the dissolution of Universal Latin Christendom, and the processes and problems of early-modern state formation. The majority of the course will be concerned with examining the second shift: a shift toward an increasingly secular understanding of natural law and natural rights theories. This second shift is marked by the emergence of two corresponding theories: a secular state of nature from which people implicitly contract into civil society and an international state of nature from which states explicitly contract into treaties and international law (*ius gentium*). We will examine how these new theories employ both traditional and innovative understandings of the rights and duties of individuals, communities, states, and international society as a whole and in doing so we will examine the shift in emphasis towards *ius gentium* as the central category in natural law and natural rights theories. The third and final shift that we will examine in this course is the shift or transition from natural law and natural rights to human rights. We will examine the redefinition of rights as human rights through two rights revolutions in the eighteenth century. First, we will discuss the American Revolution as primarily a natural rights revolution. Second we will discuss the French Revolution as a human rights revolution (although, keeping an eye to the category of ‘citizen’). We will conclude the course by reading conflicting assessments of these rights revolutions and consider how

the outcomes of these revolutions continue to inform—and are appealed to by—modern human rights traditions.

Each session will begin with a brief lecture outlining the major issues addressed in the texts within their historical context. For example, the first discussion in the course will be introduced by a brief lecture on the relevance and importance of both Roman and canon law to late medieval and early modern political thought. This lecture will cover such concepts as *ius* and *dominium* and the definitions and understandings of natural law within the Corpus of both Roman and canon law. This lecture will also introduce one of the major themes of the course: ***the use of natural law and natural rights theories and claims as a means to both legitimize and criticize existing political, social, economic, and religious institutions.*** The remainder of each session will consist in a discussion of the texts. We will begin by laying out the basic arguments and assumptions of the texts and then move into a more substantive assessment and critique.

**Week One: The Stoics, The Romans, & The Church**

Tuesday Introduction and Overview of Course

Thursday Cicero, *On the Laws*: Book I, Book II  
Justinian, *The Institutes*

Book 1: I. Law and Justice; II. Natural, Common, and Civil law  
III. Law of Persons; IV The Freeborn; V. Freedmen; VIII. Slaves.  
Gratian, *The Treaty on the Laws, Distinctions 1-13* [Distinctions only; **not** the gloss]  
[[strongly suggested: Aristotle, *Politics* Book I ]]

**Week Two: Augustine and Aquinas**

Tuesday: Augustine, *Confessions* (electronic reserve)  
Augustine, *City of God* (electronic reserve)  
Aquinas, *Chapter III: Law* (76-157)

Suggested: D'Entreves, *Chapter II: A Universal System of Laws* (22-36)

Thursday: Aquinas, *Chapter IV: Right, Justice and Judgment* (158-204)

Suggested: Oakley, *Natural Law, Laws of Nature, Natural Right*

**Week Three: Natural Law and *Ius Gentium*.**

Tuesday Bartolome de Las Casas: [all on electronic reserve]  
The "Only Method" of Converting the Indians  
A "Very Brief Account of Spanish Cruelty"

Abolish the Encomienda!  
The Duty of Reparation  
A Defense of Human Sacrifice  
All the Races of the World are Men

Tierney, *Aristotle and the American Indians* [electronic reserve]

Suggested: D'Entreves, *Chapter III: A Rational Foundation of Ethics* (37-50)

Thursday

Francisco de Vitoria  
*Concerning the Indians lately discovered: The Indian cause before the law of nations*  
[selections; electronic reserve]

Anthony Padgen, *Dispossessing the Barbarian* [electronic reserve]

**Week Four:**

**Francisco Suarez and Hugo Grotius: Natural Rights and International Law**

Tuesday

Francisco Suarez *On Law and God the Lawgiver* (in Schneewind: 67-97)  
Hugo Grotius, *On the Law of War and Peace* (in Schneewind: 88-109)

Suggested: D'Entreves, *Chapter IV: A Theory of Natural Rights* (51-64)

Thursday

Hugo Grotius, *The Freedom of the Seas*

Suggested: D'Entreves, *Chapter V: The Essence of Law* (65-78)

**Week Five:**

**Violence and Sociability: Hobbes, Pufendorf and the State of Nature**

Tuesday

Thomas Hobbes  
*Philosophical Rudiments Concerning Government and Society*  
(in Schneewind: 111-136)  
*Leviathan*: Part I: Chapter XIII, XIV, XV, XVI (86-109)  
Part II: Chapter XXI (139-148)

Thursday

Samuel Pufendorf  
*On the Duty of Man and Citizen According to Natural Law*  
Book I (17-38; 56-67) Book II (115-119; 158-162)  
*The Law of Nature and Nations* (in Schneewind: 156-181)

Suggested: D'Entreves, *Chapter VI: Law and Morals* (79-92)

**Week Six:**

**Responses to Hobbes and Pufendorf: Cumberland and Leibniz**

Tuesday:

Richard Cumberland [electronic reserve]  
*Duties Contained in the Law of Nature* (471-485)  
*Origin of Dominion and Moral Virtues* (485-51)

both in *A Philosophical Inquiry into the Laws of Nature*

Thursday: G.W. Leibniz [electronic reserve]  
*Meditation on the Concept of Justice*, II (43-64)  
*Opinion on the Principles of Pufendorf* (64-75)  
*On Natural Law* (77-80)  
*Notes on Social Life* (81-82)

**Week Seven: Toleration and the Emergence of Liberalism? Locke and Vattel**

Tuesday: John Locke  
*A Letter Concerning Toleration* (selections, electronic reserve)  
*Two Treatise on Government* (selections, electronic reserve)

Thursday: E. de Vattel [all on electronic reserve]  
Chapter II: *General Principles of the Duties of a Nation Toward Herself* (4-8);  
Chapter III: *Of the Constitution of a State, and the Duties and Rights of Nation in that Respect* (8-12); Chapter XI. *Second Object of Good Government—to procure the true Happiness of a Nation* (47-54)  
Chapter VII: *Of Piety and Religion* (55-63)

**Week Eight: The Social Contract and International Law: Rousseau and Kant**

Tuesday: Jean-Jacques Rousseau  
*Discourse on the Origin and the Foundations of Inequality Among Men* or *Second Discourse*, (electronic reserve)  
*The Social Contract, Book I* (49-68)

Thursday: Immanuel Kant. (electronic reserve)  
*On the Relationship of Theory to Practice in International Right*  
*Introduction to the Theory of Right*  
*International Right*

Suggested: D'Entreves, *Chapter VII: The Ideal Law* (93-108)  
*Chapter VIII: Conclusion* (108-116)

**Week Nine: Natural and Human Rights in the American and French Revolutions**

Tuesday: **American Revolution**  
*American Declaration of Independence*, 1776  
*The Bill of Rights*, 1789  
Arendt, *On Revolution*.

Thursday:           **French Revolution**  
French *Declaration of the Rights of Man and Citizen*, 1789  
*Defining Rights before 1789* (in Hunt: 35-43)  
*Antislavery Agitation* (in Hunt 51-59)  
*Petition of Women of the Third Estate to the King, 1789* (in Hunt: 60-62)  
*Debates about the Declaration of Rights, July and August 1789* (in Hunt: 71-76)

**Week Ten:**           **Conclusion: "Nonsense built upon Stilts" ?**  
Tuesday:           Jeremy Bentham and Thomas Paine [selections; electronic reserve]  
Bentham, *Introduction to the Principles of Morals and Legislation*  
Paine, *The Rights of Man*

**Required Texts:**

Thomas Aquinas, *Political Writings*. trans. & ed. by R. W. Dyson (Cambridge, 2002)  
Gratian, *The Treaty on the Laws*. trans. James Gordley (Catholic University Press, 1993)  
John Locke, *Two Treatises of Government* (Cambridge)  
Samuel Pufendorf, *On the Duty of Man and Citizen According to Natural Law*  
(Cambridge, 1991)  
Jean-Jacques Rousseau, *The Social Contract* (Penguin Classics, 1968)  
Hannah Arendt, *On Revolution* (Penguin, 1965)  
Lynn Hunt, *The French Revolution and Human Rights: A Brief Documentary History*  
(Bedford, 1996)  
J.B. Schneewind, ed., *Moral Philosophy from Montaigne to Kant* (Cambridge, 1995)

**Suggested Texts:** (On Reserve)

A. P. D'Entreves, *Natural Law: An Introduction to Legal Philosophy* (Transaction, 1994)  
John Figgis, *Political Thought from Gerson to Grotius, 1414-1625* (Harper, 1960)  
T. J. Hochstrasser, ed. *Early Modern Natural Law Theories: Contexts and Strategies in the Early Enlightenment* (Kluwer: 2003)  
Lyn Hunt, *Inventing Human Rights* (W.W. Norton and Company, 2007)  
Francis Oakley, *Natural Law, Laws of Nature, Natural Right* (Continuum, 2006)  
Anthony Padgen, ed. *The Languages of Political Theory in Early Modern Europe*  
(Cambridge, 1987)  
Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150-1625* (Scholars Press, 1997)  
Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge: 1979)  
Pauline C. Westerman, *The Disintegration of Natural Law Theory: Aquinas to Finnis*  
(Brill, 1998)  
Michael Zuckert, *Natural Rights and the New Republicanism* (Princeton University Press, 1994)