Teaching the History of Human Rights and "Humanitarian" Interventions

by Mary Nolan

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It took me a long time to pay attention to human rights and an even longer time to want to read and teach about them. I was a child of the 1960s, immersed in the antiwar movement, student protests, and the women’s movement. The languages we spoke in the last decades of the Cold War were ones of class, race, and gender, of possible socialisms and the problems of capitalism. In my teaching on twentieth-century European history during the 1970s and 1980s, human rights hardly figured at all, for the Cold War, economic recovery, European integration, Americanization, Social Democracy, and new social movements took center stage. In the 1980s, when some of my students started talking enthusiastically about Helsinki Watch and the need to defend the human rights of Eastern Europeans, I was surprised and puzzled. I didn’t know a lot about the socialist regimes there, but wasn’t this a return to cold war binaries and crude anti-communism? Criticisms of Latin American dictatorships for human rights violations and the various UN Women’s Conferences suggested other possibilities for a language and politics of human rights, but they were not hegemonic before 1989.

By the 1990s human rights were everywhere. Human rights have deep and very complex origins, which are the subject of much scholarly contestation, but they unquestionably gained new prominence during the multifaceted economic, political, and social crises of the long 1970s. There was the 1975 Helsinki Final Act, drawn up by the Conference for Security and Cooperation in Europe, with its famous Basket III that called for “respect for human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief,” and contained human rights language affirming freer human contacts, family reunification, and educational and cultural exchanges. While the immediate impact of Helsinki was limited, its rhetorical appeal was great, both among dissidents in Eastern Europe and their supporters in the West. Governments in Europe and the United States devoted greater attention to human rights violations in both Europe and Latin America, although with limited ability to curb or punish violators. There was a proliferation of NGOs devoted to human rights, as groups like Human Rights Watch, Doctors without Borders, and the Mothers of the Plaza de Mayo joined older ones like Amnesty International. Women’s rights as human rights were hotly debated at UN Women’s Conferences, in development projects, and among women’s NGOs.

In the wake of the collapse of communism, human rights (along with neoliberalism) became hegemonic. In the post-Cold War global order human rights are widely invoked, although much less often respected. They provide the privileged language in which demands can be made, good causes advocated, legitimacy claimed, and interventions of all sorts justified. States have to take account of human rights in their policies at home and in terms of their reputational status and possibilities for aid and alliances abroad.

Scholarship followed politics and there has been a flood of books and articles, academic conferences, UN reports, and NGO activities devoted to analyzing, publicizing, praising, and criticizing the human rights conventions and treaties and the UN, governmental and nongovernmental organizations devoted to human rights activism. Such activism ranges from promoting women’s human rights to punishing war criminals in international criminal tribunals, from condemning torture to elaborating a human right to development, from protecting indigenous cultures to bolstering democracy. Closely associated with human rights activism are the varied humanitarian interventions around issues of famine, epidemics, and refugees. Finally, after 1989 there have been the so-called “humanitarian” interventions of a militarized sort, such as in Kosovo, Libya, and now Syria. These are justified in part on the grounds that countries have a Responsibility to Protect citizens of another country if it is held to be violating their human rights.

Given the prevalence of human rights discourses, institutions, organizations, and interventions and given the widespread, if often uncritical, enthusiasm for human rights among students, it seems imperative to teach about human rights. Marilyn Young and I teach a course on Human Rights and “Humanitarian” Interventions to a diverse group of MA and PhD students from History, Journalism, and interdisciplinary humanities and social science programs. Some of them work with human rights NGOs. The first thing we try to convey is the sheer diversity and messiness of the history and contemporary practice of human rights. Since we are historians, we put current human rights debates, policies, and activism in a longer historical context. The resulting narrative is hardly a triumphalist story of the gradual but inevitable rise of human rights or the unambiguous goodness of human rights activists and activism, as many Americans are prone to assume. Rather, it is a complex and contradictory story, filled with people acting from complicated and often self-interested motives and with laws and interventions producing unintended consequences. There are multiple actors and institutions, political, legal and economic, involved in disputing every aspect of the origins, definition, and implementation of human rights as well as the punishment of violators. The meaning and practice of human rights are fought over and worked out on multiple levels—in international institutions, regional human rights courts, national governments, and local and national NGOs.

The intention is not to criticize human rights across the board, for much that is useful has been and can be defended and claimed in its name. Nor is it to discourage students from human rights activism. Rather, it
is to warn against facile assumptions about which rights are and are not human rights, about who does and does not defend human rights, and about the consequences of “humanitarian” interventions, especially of a militarized sort. Before exploring these assumptions and how we complicate them, let me say a few words about the overall structure of our course.

The course opens with an exploration of where and when to locate the idea of human rights—an issue of ongoing and lively dispute. Is it in the Enlightenment? The American and French Revolutions? The anti-slavery movement? Nineteenth- and twentieth-century debates about internationalism and global governance? And what about humanitarian movements such as the Red Cross? This section of the course concludes with an examination of how and by whom the key human rights documents of the late 1940s and early 1950s were drafted. Were they an American “New Deal for the World,” as Elizabeth Borgwardt has argued, or a product of international collaboration among European, Latin American, and U.S. participants? Did they come out of a Christian right or a progressive left? The aim is to tease out differences between civil rights and human rights, to distinguish human rights and humanitarianism, and to ask what is intellectually and politically at stake in claiming different genealogies for twentieth-century human rights.

Three themes . . . run through the course: how are human rights defined; who defends them; and why have “humanitarian” interventions proven problematic?

Section two explores the problems of defining and enforcing basic political and civil human rights and punishing their violation. War crimes, bombing civilians, and torture form our three case studies; each has richly documented historical precedents as well as troubling contemporary manifestations, such as Boko Haram, drone warfare, and Abu Ghraib. Each raises questions about who gets to define human rights violations and to punish them.

Section three looks at the rise to prominence of human rights since the 1970s. It examines the uses and abuses of human rights in U.S. foreign policy, focusing primarily on Eastern Europe and Latin America. This section also examines efforts by the Global South to put economic, social, and cultural rights on the human rights agenda with the 1975 New International Economic Order resolution of the UN General Assembly and the 1986 resolution on the Human Right to Development and attempts by the First World to limit the effective claims to such rights. Finally, the successes and failures inside and outside of the UN in promoting women’s rights as human rights are investigated. This provides a rich opportunity to see how cultural relativism and human rights collide and to see how women in different parts of the world rank and relate civil and political versus social and economic rights.

The final section of the course examines what situations have been defined as human rights violations and whether and how governments, the UN, and NGOs have responded to them. We look at the Genocide Convention and the limited reactions to examples of genocide, such as Rwanda. Contemporary humanitarian aid and its similarities to and differences from nineteenth-century humanitarianism are examined with students reporting on an NGO or humanitarian intervention of their choosing. The last class looks at liberal humanitarian interventions in the Middle East, reading proponents and critics of such military (mis)adventures. The first time we taught the course, the public debate centered on Darfur; the second time Libya was all over the news. Syria is our all too relevant case study this fall.

Let us return to the three themes that run through the course: how are human rights defined; who defends them; and why have “humanitarian” interventions proven problematic?

Which rights are human rights? I always ask my students that in the first class and the responses are generally limited to a few civil and political rights, such as freedom of speech and religion, freedom from torture and unjust imprisonment. Yet, the 1948 Universal Declaration of Human Rights, the foundational document of the subsequent human rights movement, lays out a capacious array of social and economic rights. These include the rights to own property, to social security, to education, to work—and to equal pay for equal work. There is the right to “an adequate standard of living for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.” “Everyone . . . is entitled to the realization, through national effort and international cooperation . . . to the economic, social and cultural rights indispensable for his dignity and the free development of his personality.” Article 28 states, “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.” From the late 1940s through the 1960s these rights were repeatedly discussed within the UN and finally embodied in the 1966 Covenant on Economic, Social and Cultural Rights that went into force in 1977.

Yet, the existence, nature, desirability, and feasibility of social and economic human rights have been contested to a degree unmatched with such civil and political rights as the right to life and due process, freedom of speech, religion, movement and association and freedom from torture and slavery. UN officials and national politicians and diplomats, the IMF, World Bank, and an array of NGOs, development experts and advocates of women’s rights, legal scholars and economists have been involved in these debates at various times. A central aim of our course is to recover the discourses, debates, and declarations about social and economic human rights and the usually unsuccessful efforts to implement them. By so doing, we greatly expand the usual definition of human rights, illustrate how limited and economically
unprogressive the practice has often been, and show how conservative the U.S. understanding of human rights is.

The course looks at the diverse defenders of economic and social human rights over the last 65 years—from socialist states and national and international women’s movements, to third world nations and some, but hardly all, development experts, from a shifting set of UN agencies and institutions to some NGOs—those dealing with women, for example, have played a key role while the UNDP, Amnesty International, and Human Rights Watch initially kept a distance. The UN has been a particularly important locus of debate, planning, and attempted implementation. Initially, the Economic and Social Commission took the lead, then it was the UN Conference on Trade and Development, and now the two key actors are the Office of the High Commissioner for Human Rights and its various agencies and committees; UNDP, and the UN women’s conferences and their follow-up activities, most recently the Beijing plus 20 initiatives.

A shifting cast of characters with diverse motivations have critiqued or rejected or simply neglected economic and social human rights. The United States, initially deeply ambivalent, has been since Reagan openly hostile, due to its own weak social and economic rights and to the growing commitment to neoliberalism. The EC/EU, despite its commitment to generous postwar welfare states, did not include social rights in the European Convention on Human Rights that went into effect in 1953; the 1961 Social Charter, however, did, as does the Social Chapter of the Maastricht Treaty. European powers in the late 1940s and 1950s refused to extend the social and economic rights accorded in the metropole to their colonial subjects. From the 1970s, they have supported North-South dialogue and development, a position long favored by the Socialist world, but deploy a language of solidarity and dignity rather than of human rights. In the 1950s and 1960s, the decolonizing world gave priority to self-determination over social and economic rights, or saw that as a prerequisite for any realization of them.

Criticisms of social and economic human rights have been couched in a variety of rhetoric, ranging from anti-communism and anti-totalitarianism to defenses of religious and cultural beliefs and practices. Academics favor legal and philosophical arguments; many politicians and corporations prefer economic ones. Since the 1980s, neoliberal arguments have taken center stage, insisting that social and economic benefits—the language of rights is avoided—can best be realized by giving priority to the market over the state, the individual over society. Thus, for example, it is argued that women’s economic position is best improved by microcredit loans to promote individual entrepreneurship, not by state economic policies and social protections. Civil and political rights which contribute to good “governance” and a probusiness economic climate are emphasized, while the legitimacy of entitlements owed by a state to its citizens or the obligations of developed and richer states to aid less developed ones are emphatically denied. Human rights, as we try to show in our course, are not simply a front for neoliberalism; but neoliberalism and human rights share a hostility to the state, a focus on the individual over the social, a suspicion of collective rights, and a tendency to see both human rights and the market as not gendered. Both claim not to be ideological and above politics. Our course calls all of these assumptions into question and seeks to show the complex and often detrimental ways in which neoliberalism has shaped the definition and practice of human rights.

Social and economic human rights provide one entrée into the issue of who does and does not defend human rights; American foreign policy provides another. From the 1970s on the U.S. government and governing classes, like so many others, have instrumentalized human rights for a variety of diplomatic and domestic purposes. In the 1970s politicians like Senator Henry Jackson and Congresswoman Millicent Fenwick wielded human rights as a cold war weapon to attack the Soviet Union for its refusal to allow Soviet Jews to emigrate. But politicians like Henry Kissinger cared little for the Helsinki process, which was first and foremost a European project, not a transatlantic or American one. He gave priority instead to superpower détente and nuclear limitation. U.S. Liberals like Donald Frasier focused not on the Soviet Union but rather on torture and political imprisonment by military regimes in South America, but they failed to limit seriously American aid to those regimes or their counterparts in Central America a decade later. For the U.S. government and military, cold war priorities and economic interests were more important than human rights violations. And their embrace of human rights, in the wake of Vietnam, was motivated primarily by a desire to “reclaim American virtue” in Barbara Keyes’ apt phrase.4 By the 1980s American human rights language had diminished, sometimes being replaced by “democracy promotion,” a less clear and entitling concept. Where human rights were defended seriously, it was by Europeans involved in the Helsinki Process or women and developing countries in various UN bodies.

The United States regards human rights less as universal rules than as obligations which others need to adopt or must be punished for violating. The United States has consistently assumed that human rights violations are only committed by others, never by the United States, despite recent torture, extraordinary rendition, and Guantanamo. The Bush Administration torture memos, which we have students read,5 provide a classic example of how American...
human rights violations are rationalized away. The United States has a long and growing record of refusing to ratify human rights treaties, arguing that they threaten to violate American sovereignty or cultural norms. The United States has not signed on to CEDAW, the Convention to End All Forms of Discrimination Against Women, for example, putting us in the select company of countries such as Sudan, Somalia, and Iran. The United States is not a party to the International Criminal Court, making that institution a limited enforcer of human rights, one which punishes only African violators. The United States is not the only state to narrowly define and selectively defend human rights, but it is the most powerful and prominent one to do so. That shapes how the United States and its human rights record are viewed by others.

The United States is the principle champion of so-called “humanitarian interventions.” But as with ICC prosecutions, human rights violations are singled out and punished only when it suits American economic interests or perceived security needs. The primary commitment of the United States has been the creation of a neoliberal economic order, one that preserves as much as possible dwindling American economic influence. If countries that embrace market fundamentalism—or have it imposed by IFM and World Bank conditionality—are at least sort of democratic, that is fine, but not essential. If they avoid violations of civil and political human rights, that is good; if they try to enforce social and economic ones, that is bad. The priority is a neoliberal economy. The unilateral U.S. Millennium Challenge Corporation, set up in 2002 in response to the multilateral, UN sponsored Millennium Development Goals, for example, offers aid to countries committed to “good governance, economic freedom, and investments in their citizens” and “sound economic policies that foster enterprise and entrepreneurship.” The language of human rights and democracy is missing. Good governance is more about ostensibly apolitical management than about rights or democracy.

“Humanitarian” or liberal interventionism of a militarized sort is even more problematic, as discussions of the motives for and results of the U.S. war in Afghanistan and Iraq and the European and U.S. intervention in Libya show. We ask students to read both supporters and critics of liberal interventionism in the Middle East as well as to read debates about whether countries have a Responsibility to Protect the citizens of another country from their own government. These have provoked some of the most heated discussions in the course. Going into Iraq might have been done with lies and destroyed the economy, society, and state there, students admit, but how can one not help the beleaguered civilians of Gaddafi’s Libya or Assad’s Syria? If Americans believe in human rights, how can they not act? If students think twice about endorsing military interventions, if they ask why human rights are being invoked here and not elsewhere, if they question the impact of liberal interventionism on social and economic human rights as well as civil and political ones, the course will have achieved some of its key aims.

Notes


Syllabus

HIST-GA 2606
Human Rights and “Humanitarian” Interventions
Fall 2015, Wed., 2-4:45

Human rights and “humanitarian” interventions are surrounded by a web of good intentions and contradictions. This course will explore them. We begin with selected metanarratives about the history of human rights. We will then read some of the founding documents on which human rights theory rests. Defining human rights is difficult, enforcing them even more so, as will be clear when we examine issues of crimes of war, torture, economic and women’s rights. Additional topics include human rights in Eastern Europe and Latin America in the 1970s, bombing civilians, and humanitarian aid. We conclude by looking at genocide and at liberal interventionism and the Responsibility to Protect in the contemporary Middle East.

Students are expected to do the reading before each class and write weekly response papers to be posted on Blackboard by 6 pm on the evening before class. Students will write a longer term paper on a topic of their choice.

I. Sept. 2 Introduction

Part I: Origins and Interpretations

II. Sept. 9 International Law and International Governance

*Mark Mazower, Governing the World: the History of An Idea
III. Sept. 16 When and How did Human Rights originate?


IV. Sept. 23 Nineteenth Century Humanitarianism and International Law


V. Sept. 30 Post World War II Human Rights: American and European Inputs, Soviet Responses


Part II: Defining and Enforcing Human Rights

VI. Oct. 7 Laws of War and War Crimes


Geoffrey Robertson, *Crimes Against Humanity*, chapters 5-6.

Isabel Hull *A Scrap of Paper: The Making and Breaking of International Law in the Great War*. (on line at Bobst or buy Kindle)

VII. Oct. 14 Laws of War and Bombing Civilians

*Bombing Civilians*, ed. By Yuki Tanaka and Marilyn B. Young.

Speech by Harold Koh, advisor to President Obama, [http://www.state.gov/s/l/releases/remarks/139119.htm](http://www.state.gov/s/l/releases/remarks/139119.htm).

Movie: *The Good Kill*

VIII. Oct. 21 Torture

UN Convention against Torture


Paraguay case: Court ruling plus two articles.


Documents: Torture Memos.
[http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB127/02.01.09.pdf](http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB127/02.01.09.pdf).

[http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB127/02.01.25.pdf](http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB127/02.01.25.pdf).


Bybee memo.

**Part III: Human Rights since the 1970s**

IX. Oct. 28 Putting Economic, Social and Cultural Rights on the Agenda

International Covenant on Economic, Social and Cultural Rights,
[http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESC R.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESC R.aspx).


“Human Rights and Market Fundamentalism,”

Articles on the NIEO *Humanity*.

“In Search of Social and Economic Human Rights.”

X. Nov. 4 Women’s Rights as Human Rights

CEDAW, Convention on the Elimination of All Forms of Discrimination Against Women,

Women, *Gender and Human Rights*, ed. by Marjorie Agosin, essays by Fraser, Dauer, Merry, Gaer, and Afkhami.


Rhonda Copelon, “Surfacing Gender: Re-engraving Crimes against Women in Humanitarian Law,”

Amartya Sen, *Development as Freedom*, intro, Chapters 8 and 12.


Article on microcredit or film clips

XI. Nov. 11 Human Rights and American Foreign Policy

**Part IV: Responding to Rights Violations.**

XII. Nov. 18 Genocide
UN Convention on Genocide.  


Robertson, *Crimes Against Humanity*, Chapter 8.
Romeo Dallaire, art or chapter from *Shake Hands with the Devil*.

XIII. Dec. 2 Humanitarian Aid

Students will choose and report on one of the following: Doctors Without Borders, Haiti after the earthquake, 1990s famine in Somalia, Hurricane Katrina.


http://www.youtube.com/watch?v=oJLyuxm96k.


XIV. Dec. 9 Liberal/humanitarian Interventionism in the Middle East

*Peter van Buren, *We Meant Well: How I helped loose the Battle for the Hearts and Minds of the Iraqi People."


http://www.nytimes.com/2003/01/05/magazine/05EMPIRE.html?pagewanted=all.


Secretary General Ban ki-Moon's Report
"Implementing the Responsibility to Protect" (PDF)
(http://www.responsibilitytoprotect.org/plus).