



The Hebrew University of Jerusalem

Syllabus

Human Rights in Ancient Rome - 39880

Last update 05-09-2021

HU Credits: 2

Degree/Cycle: 2nd degree (Master)

Responsible Department: History

Academic year: 0

Semester: 2nd Semester

Teaching Languages: Hebrew

Campus: Mt. Scopus

Course/Module Coordinator: Dr. Matthias Schmidt

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Coordinator Office Hours: Wednesdays - 15:00-17:00

Teaching Staff:

Dr. Matthias Schmidt

Course/Module description:

Most historians would agree that source evidence from Greek and Roman antiquity for the centrality of modern human rights is not really promising. The history of the modern concept(s) of universal human rights in the Western hemisphere might be traced back to the enlightenment of the 17th/18th century and its philosophical debates on benevolent social practice - or more likely to the second half of the 20th century only. Nevertheless, researchers in different disciplines assume that the European discourse on human rights date further back, while the idea of rights is as old as civilization. Therefore, Western and European societies search "for cultural factors that facilitated the creation and transmission of human values across history" (Rachel Hall Sternberg, *The Ancient Greek Roots of Human Rights*). In consequence, also sources from the ancient Roman worlds are read and understood as antecedents for modern human rights law in general - not in the sense of direct influence, but in form of premises, ideas, and normative concepts and frameworks for existing human rights law (Dinah Shelton, *Oxford Handbook of International Humans Rights Law*, 3). Other researchers disagree and follow an alternative approach assuming that it is "more convincing to argue a present cause by first determining its political meaning today" (Samual Moyn, *Human Rights and the Uses of History*, 61). - The seminar will deal with the question of existence and meaning of "human rights" and other civil/social/political rights in different periods of Roman history from the Roman Republic and the imperial time till Marcus Aurelius as possible sources of modern universal human rights law. Relevant texts of different authors will be read and analyzed in order to understand different concepts and their development during the change of political systems in ancient Rome. If (and how) modern concepts of human rights might be rooted in Roman civilization, history and thought will be discussed in order to see if the reference to Roman antiquity in human rights law is used to "update the myth of 'Western civilization' to suit momentary agendas" (Samual Moyn, *Human Rights and the Uses of History*, xiv).

Course/Module aims:

The students will explore ancient Roman sources from different cultural-social-political spheres and contexts of Roman society from the time of the Republic till the imperial time in a comparative perspective. They will discover the meanings and functions of these source texts in their historical contexts. They will identify conceptual elements of individual or collective "human rights" and other civil/social/political rights and discuss their value for modern human rights law, realizing that these ideas were already challenged in antiquity by "hierarchy, power

and subordination" (Shelton, Handbook, 3). Through a critical and complex reading the students will compare the concept of ancient Roman sources with underlying concepts of modern human rights law - like the universality of human rights and human dignity, the question of natural law/rights, the role of civil society, equality and democracy or the problem of universalism versus cultural relativism. They will develop arguments in order to support or reject the theories and approaches concerning the "transmission of human values across history". During the course students will get acquainted with different models and developments towards the value of ancient Roman political and philosophical thinking as antecedents for the creation of modern human rights concepts. The discussion will contribute to the understanding of the different nature and purposes of ancient and modern discourses on "human rights".

Learning outcomes - On successful completion of this module, students should be able to:

- * identify different and changing concepts of individual and collective rights in a variety of social/political and intellectual contexts and periods in ancient Roman history;
- * determine ideas and normative concepts of "human rights" expressed in Roman sources in their historical contexts;
- * describe the elements of the underlying concepts and their importance for the transmission of human values across history;
- * evaluate the meaning and importance of Roman concepts as antecedents for modern human rights law and determine their political meaning today;
- * understand the history and development of human rights law;
- * assess the variety of modern approaches towards the question of the history of human rights and their political agenda;
- * develop an awareness of the nature and purposes of using ancient concepts as antecedents for modern human rights law;
- * select and synthesize material from lectures and recommended primary and secondary sources as well as research literature to use in oral and written discussions of set topics.

Attendance requirements(%):

90%

Teaching arrangement and method of instruction: Reading, analysis and interpretation of primary and secondary sources of different nature of historiography, philosophy, inscriptions, legislation and contracts as well as

artifacts; presentation and discussion of research literature; preliminary readings for each session will be circulated and must be prepared in advance. In the seminar, lectures, power point presentations, class room discussions, group work and student presentations will alternate.

Course/Module Content:

The following work plan gives the main structure of the seminar. An extended work plan with detailed source references will be published on moodle step by step during the term.

1. Introduction

1.1 What are “Human Rights”? - Definitions, Approaches, Examples

1.2 Research Problems and Methodology: Is there a History of Human Rights Law before the 20th century?

1.3 Defining Normative Conceptual Elements: Natural Rights - Universal Law - Universal Ethics - Unity of Humanity - Philanthropia - Dignity - Justice - Equality - Democracy - Political Participation - Free Speech - Individual Freedom - Universalism and Ethnocentrism - Cultural Relativism

2. Legendary Times

2.1 The Law of the Twelve Tables - Fact or Literary Invention

2.2 Structure, Purpose and Reconstruction of a ius humanum

3. General Concepts of laws, courts and judicial system

3.1 Concepts of Laws

3.2 Permanent Courts: quaestiones perpetuae

3.3 Famous Trials of “universal, timeless” Importance

4. The Classic Republic: Humanitas, Dignitas and Philanthropia

4.1 Concepts, Definitions and Developments

4.2 The Scipionic Age: Law and Rights

5.3 The Roman Revolution: Maiestas, Morality and Humanitas

5.4 Cicero on Humanitas and Universalism

6. The Imperial Times: Humanitas, Clementia and Iustitia

6.1 Caesar, Augustus and Beyond

6.2 Social Welfare and Freedom of Religion: New images of Humanitas in the 2nd Century

6.3 The Greeks are back: Philosophy, Philanthropia, Universalism

7. Conclusion

7.1 Human Rights in the Roman World: An Anachronism or a contribution to the modern discourse?

Required Reading:

The actual required reading (documents, articles, book chapters) will be determined in relation to the specific subjects of the course. All items of the required reading will be posted in due time on the moodle.page for the seminar in chronological order according to the speed of our work capacity in the seminar. The following list includes items texts focused on the question of Human rights in Greek and Roman antiquity as well as more general historical surveys referring inter alia to the Greek and Roman World in the context of human rights.

Richard A. Baumann, *Human Rights in Ancient Rome*, London-New York: Routledge, 2000 (on moodle; and online access via Mount Scopus Library).

Peter A. Brunt, "Charges of provincial maladministration under the Early Principate", in: *Historia: Zeitschrift für Alte Geschichte* 10.2 (1961), 189-227 (on moodle; and online access via Mount Scopus Library).

Maurice Cranston, "What are Human Rights", in: Walter Laqueur, Barry Rubin (eds.), *The Human Rights Reader*, New York: New American Library, revised edition 1990, 17-25 (on moodle; and Mount Scopus Library JC571 H76 1990).

Jack Donneley, "The Concept of Human Rights", in: idem., *Universal Human Rights in Theory and Practice*, Cornell University Press, 3rd edition, 2013, chap. 1: 7-23 (on moodle; and Law Faculty Library Mount Scopus, Middle Level General 342.7 (100) DON 3).

Jack Donneley, "A Brief History of Human Rights", in: idem., *Universal Human Rights in Theory and Practice*, Cornell University Press, 3rd edition, 2013, chap. 5: 75-92 (on moodle; and Law Faculty Library Mount Scopus, Middle Level General 342.7 (100) DON 3).

Jacob Giltaij, Kaius Tuori, "Human rights in Antiquity? Revisiting anachronism and Roman law", in: Pamela Slotte, Miia Halme-Tuomisaari (eds.), *Revisiting the Origins of Human Rights*, Cambridge: Cambridge University Press, 2015, 39-63 (on moodle; and online access via Mount Scopus Library).

John M. Headley, "The Universalizing Principle and the Idea of a Common Humanity", in: idem., *The Europeanization of the World. On the Origins of Human Rights and Democracy*, Princeton-Oxford: Princeton University Press, 2008, chap. 2: 63-148 (online access via Mount Scopus Library and JC 423 H425 2008).

Louis Henkin, *The Age of Rights*, New York: Columbia University Press, 1990, 1-5 (reprinted in: Louis Henkin, Gerald L. Neuman et. al. (eds.), *Human Rights*, New

York: Foundation Press, 1999, 2-6; on moodle).

Tony Honoré, Ulpian. *Pioneer of Human Rights*, Oxford: Oxford University Press, 2002 (2nd ed.), esp. chap. 3: *The Cosmopolis and Human Rights*, 76-93.

Micheline R. Ishay, "Early Ethical Contributions to Human Rights", in: *idem.*, *The History of Human Rights from Ancient Times to the Globalization Era*, Berkeley-Los Angeles, University of California Press, 2004 (on moodle, and Mount Scopus Library JC 571 I73 2004), chap 1: 15-61.

Paul Gordon Lauren, "The Foundations of Justice and Human Rights in Early Legal Texts and Thoughts", in: Dinah Shelton (ed.), *The Oxford Handbook of International Human Rights Law*, Oxford: Oxford University Press, 2013, 163-193, (online access via Mount Scopus Library; and Law Faculty Library Mount Scopus, Middle Level General 342.7 (100) OXF).

C. E. Manning, "Stoicism and Slavery in the Roman Empire", in: ANRW II 36.3 (1989), 1518-1543 (on moodle).

Kenneth Minogue, "The History of the Idea of Human Rights", in: Walter Laqueur, Barry Rubin (eds.), *The Human Rights Reader*, New York: New American Library, revised edition 1990, 3-17 (on moodle; and Mount Scopus Library JC571 H76 1990).

Josiah Ober, "Meritocratic and civic dignity in Greco-Roman antiquity", in: Marcus Düwell et. al. (eds.), *The Cambridge handbook of human dignity: Interdisciplinary perspectives*, Cambridge: Cambridge University Press, 2014, 53-63 (on moodle; and> online access via Mount Scopus Library).

Brian Orend, *Human Rights. Concepts and Context*, Peterborough, Canada: Broadview Press, 2002, chapter 7: *History I: Origins to the Nineteenth Century*, 91-212.

Siep Stuurman, "Introduction: How Cross-Cultural Equality Became Thinkable", in: *idem.*, *The Invention of Humanity. Equality and Cultural Differences in World History*, Cambridge, Mass., - London: Harvard University Press, 2017, 1-30 (on moodle; Mount Scopus Library HM 821 S778 2017).

Siep Stuurman, "Visions of a Common Humanity", in: *idem.*, *The Invention of Humanity. Equality and Cultural Differences in World History*, Cambridge, Mass.,-London: Harvard University Press, 2017, chap. 1: 31-66 (on moodle; Mount Scopus Library HM 821 S778 2017).

Robert W. Wallace, "Personal Freedom in Greek Democracies, Republican Rome, and Modern Liberal States", in: Ryan K. Balot (ed.), *A Companion to Greek and Roman political thought*, Chichester, England: Wiley-Blackwell, 164-177 (on moodle; and> online access via Mount Scopus Library).

Susan Ford Wiltshire, Greece, Rome and the Bill of Rights, Norman-London: University of Oklahoma Press, 1992.

Paul A. Vander Waerdt, "Philosophical influence on Roman jurisprudence? The case of Stoicism and Natural Law", in: ANRW II, 36.7 (1994), 4851-4900.

Additional Reading Material:

The titles below are considered as additional reading. They include comprehensive introductions to different or general aspects of our subject, monographs on certain issues and problems, but also some specific publications on different issues, which might give perspectives beyond the discussion in class. If necessary - some sections of these items will become obligatory reading during the course and then posted on the moodle.page.

1) General Readers & Handbooks

Charles R. Beitz, The Idea of Human Rights, Oxford: Oxford University Press, 2009 (Mount Scopus Library JC 571 B453 2009).

Scott Sheeran, Sir Nigel Rodley, Routledge Handbook of International Human Rights Law, London New York: Routledge. Taylor & Francis Group, 2013 (online access via Mount Scopus Library; and Law Library Mount Scopus, Middle Level General 342.7 (100) ROU).

Dinah Shelton (ed.), The Oxford Handbook of International Human Rights Law, Oxford: Oxford University Press, 2013, esp. Part I: Theoretical Foundations, 9-143; Part II Historical and Legal Sources, 144-344; Part III Structural Principles, 345-498 (online access via Mount Scopus Library; and Law Library Mount Scopus, Middle Level General 342.7 (100) OXF).

1) Origins, Genealogy and Historical Developments

Jack Donnelly, "A Brief History of Human Rights", in: idem., Universal Human Rights in Theory and Practice, Cornell University Press, 3rd edition, 2013, chap. 5: 75-92 (Law Library Mount Scopus, Middle Level General 342.7 (100) DON 3).

Jack Donnelly, "Human Rights and Human Dignity: An Analytical Critique of Non-Western Conceptions of Human Rights", in: The American Political Science Review 76.2 (Jun 1982), 303-316.

Judith Evans Grubbs, *Women and the Law in the Roman Empire. A sourcebook on marriage, divorce and widowhood*, London New York: Routledge, 2002 (Mount Scopus Library DG 91 G78 2002).

John M. Headley, "The Universalizing Principle and the Idea of a Common Hunity", in: *idem.*, *The Europeanization of the World. On the Origins of Human Rights and Democracy*, Princeton-Oxford: Princeton University Press, 2008, chap. 2: 9-62 (online access via Mount Scopus Library; and Mount Scopus Library JC 423 H425 2008).

Stephen James, *Universal Human Rights. Origins and Development*, New York: LFB Scholarly Publishing LLC, 2007 (online access via Mount Scopus Library).

Hans Joas, *The Sacredness of the Person. A new Genealogy of Human Rights*, Washington, D.C.: Georgetown University Press, 2013 (online access via Mount Scopus Library).

Johannes Morsink, *The Universal Declaration of Human Rights. Origins, Drafting & Intent*, Philadelphia: University of Pennsylvania Press, 1999 (online access via Mount Scopus Library; and Law Library Mount Scopus, Middle Level General 342.7 (100) MOR).

Samuel Moyn, *Human Rights and the Uses of History*, London-New York: Verso 2014 (Law Faculty Library Mount Scopus, Middle Level General 324.7 (100) MOY).

Samuel Moyn, "Humanity before Human Rights", in: *idem.*, *The Last Utopia. Human Rights in History*, Cambridge, Mass.,-London: The Belknap Press of Harvard University Press, 2010, chap. 1: 11-43 (online access via Mount Scopus Library).

Matthias Schmidt, "Marcus Tullius Cicero Recontextualized: Latin Political Writing in Cultural Exchange and Individual Crisis", in: Dan Diner, Gideon Reuveni, Yfaat Weiss (eds.), *Deutsche Zeiten. Geschichte und Lebenswelt*, Göttingen: Vandenhoeck & Ruprecht, 2012, 41-60.

Natale Spineto, "Models of the Relationship between God and Human in "Paganism"", in: Katell Berthelot, Matthias Morgenstern, *The Quest for a Common Humanity. Human Dignity and Otherness in the Religious Traditions of the Mediterranean*, Leiden-Boston: Brill, 2011, 23-40 (online access via Mount Scopus Library).

Course/Module evaluation:

End of year written/oral examination 0 %

Presentation 0 %
Participation in Tutorials 10 %
Project work 90 %
Assignments 0 %
Reports 0 %
Research project 0 %
Quizzes 0 %
Other 0 %

Additional information:

In this seminar classical literature and sources are studied in English or Hebrew translations. Knowledge of Greek and Latin is not required.