



## *Human Rights and Political Thought (Doble RRII/Der/His)*

*Guía docente 2023-24*

- **Character:** Basic.
- **Number of ECTS credits:** 6
- **Course and semester:** 1st year, first semester
- **Language:** English
- **Title:** Degree in International Relations
- **Módulo y materia de la asignatura:** Fundamentos de relaciones internacionales, fundamentos políticos, jurídicos y económicos
- **Professor:** Prof. Pilar Zambrano.
- **Schedule and Location, Group A:** Monday 10:30 am-12:00, Room 14, P1, Amigos/Thursday, 12 am- 2pm, Room 15, P1, Amigos.
- **Schedule and Location, Group B:** Wednesday, 10:30-12 am, Sem. 07, Amigos, P0/Thursday, 12 am- 2pm, Room 15, P1, Amigos.
- **Description:**

Human Rights and Political Thought' intends to introduce students to the main traditions of western legal and political thought, focusing attention on the conception of the person as a holder of human rights.

Section (I) deploys an introduction to the history of human rights thought and of human rights legalization, within the more ample frame of the perennial questions of political thought.

With this purpose in mind, the history of human rights thought and legalization is divided in five phases: (i) human rights as moral requirements in the history of western political thought; (ii) the rise of the state in Europe and the conceptualization of human rights as political requirements; (iii) the emergence of modern constitutionalism through the incorporation of human rights to the Bills of rights; (iv) the emergence of human rights as judicially enforceable requirements; (v) the emergence of international and regional human rights law; (v) the progressive expansion of the catalogue of human rights through national and international judicial activism.

Section (II) takes over the questions raised by the extended political fact of judicial activism: What is a human right and how does it differ from other kinds of rights? Who is the proper holder of human rights? On what grounds should human rights be afforded legal force? Which claims and justice requirements should be included within the catalogue of legally enforceable human rights? What has human dignity got to do with human rights? The possible (always arguable) answers to these questions are addressed from the viewpoint of three political traditions and their corresponding conceptions of political community, human dignity, and human rights.

In the first place, through political liberalism the political community is understood as a somewhat artificial but nonetheless necessary condition for the respect of human dignity, while rights are understood as granted spheres of moral autonomy. In the second place, through the Marxist and the critical legal studies tradition, political and legal institutions are conceived as an oppressive instrument at the hands of the most powerful, and rights are conceptualized as either an illusion of freedom, or as changing spheres of resistance and equality.

Finally, with the natural law tradition, the political community is understood as the natural environment of any fulfilled life, and rights are conceived as granted spheres of freedom for the enjoyment and deployment of basic human goods.



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Part II approach these three political traditions in a conceptual vein. Therefore, students are confronted to texts from representative authors, that have been chosen in view of their eloquence concerning the basic questions posed above.

At the end of the course, students are expected to be capable of:

1. Distinguishing human rights as moral, political and legal requirements.
2. Identifying the main landmarks in the history of human rights' legalization.
3. Contextualizing the concept of human rights as moral requirements within the more ample frame of the perennial questions of political thought.
4. Understanding the concept of human rights as moral requirements from a liberal, a Marxist-critical and a natural law perspective.
5. Identifying the underpinning philosophical divergences that explain contemporary discrepancies concerning the grounds, title, catalogue, content, and categorical weight of human rights.
6. Coherently arguing a self-stance towards the grounds, title, catalogue, content, and categorical weight of human rights.

## COMPETENCIAS

Módulo 1: Fundamentos de las Relaciones Internacionales

Materia 2: Fundamentos políticos, jurídicos y económicos

Carácter básica, 6 ECTS, 1º semestre / 1er curso

### Descriptores Aneca

Pensamiento político, teoría e historia.

La polis griega y su proyección romana: justicia, política y educación.

La res pública medieval y la teoría de los dos poderes

Las transformaciones de la soberanía; la modernidad política

Las tradiciones constitucionales y declaraciones de derechos.

La formación del Estado y sus transformaciones; doctrinas políticas e ideologías contemporáneas; los derechos en los siglos XIX y XX: reinterpretaciones y desarrollos.

### Competencias básicas y específicas



CB1	Que los estudiantes hayan demostrado poseer y comprender conocimientos en un área de estudio que parte de la base de la educación secundaria general, y se suele encontrar a un nivel que, si bien se apoya en libros de texto avanzados, incluye también algunos aspectos que implican conocimientos procedentes de la vanguardia de su campo de estudio
CB3	Que los estudiantes tengan la capacidad de reunir e interpretar datos relevantes (normalmente dentro de su área de estudio) para emitir juicios que incluyan una reflexión sobre temas relevantes de índole social, científica o ética
CB4	Que los estudiantes puedan transmitir información, ideas, problemas y soluciones a un público tanto especializado como no especializado
CB5	Que los estudiantes hayan desarrollado aquellas habilidades de aprendizaje necesarias para emprender estudios posteriores con un alto grado de autonomía
CG05	Saber expresarse oralmente de manera correcta y adecuada sobre temas internacionales.
CG07	Valorar con espíritu crítico la realidad internacional y sus problemas específicos.
CE01	Conocer los conceptos y técnicas aplicadas al análisis de los actores y relaciones internacionales.
CE13	Conocer y analizar las teorías e ideologías políticas contemporáneas.



<b>ACTIVIDADES FORMATIVAS DE ESTA MATERIA</b>		
	<b>Horas</b>	<b>Presencialidad alumno en clase</b>
Clases presenciales teóricas (aproximadamente)	<b>36</b>	<b>100</b>
Clases presenciales prácticas (aproximadamente)	<b>16</b>	<b>100</b>
Seminarios, tutorías (aproximadamente)	<b>5</b>	<b>100</b>
Evaluación (aproximadamente)	<b>2</b>	<b>100</b>

<b>SISTEMA DE EVALUACIÓN</b>	<b>PONDERACIÓN</b>
Intervención en clases y seminarios	Entre un 0-10% de la calificación final
Resolución de problemas y/o prácticas	Entre un 5-25% de la calificación final
Evaluaciones parciales	Entre un 5-30% de la calificación final
Evaluación del examen final	Entre un 30-70% de la calificación final



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## Human Rights and Political Thought

### Part I: An Introduction to the History of Human Rights Thought and Legalization

#### I.1. Introduction. Human Rights and the Perennial Questions of Political Thought (4 classes).

**1. The perennial questions of political thought: Is man sociable by nature? What is the point of political communities, and how do good and bad governments affect our lives? Should political authority be limited in any way? Do we have a choice to make? Some core concepts that allow us to better understand these questions: government and “government of the day”-political authority- legal obligation - state- modern state- sovereignty- people.**

**2. Human rights, political authority, and legal obligation.**  
**Sophocles'** *Antigone*: unwritten law. Human rights as moral requirements.

3. The rise of the modern state in Europe, and the monopoly of public force. The Dialectical Function of Rights. Hobbes protection by denial.

4. The foundations of modern constitutionalism: John Locke and Montesquieu. Human rights as political requirements: protection by grant and by division of political powers.

#### **Bibliography:**

Mandatory Bibliography, Selected Texts from Sophocles, [441 BC] *Antigone*, Aris & Philips, 1993; HOBBS, THOMAS, [1651] *Leviathan*, edited by Malcolm, N., Oxford University Press, 2012, selections from Part I, chapters 8, 13, 14; Part II, chapter 17; LOCKE, JOHN, [1689] *Second Treatise of Government*, edited by Macpherson, C.B., 1980, selections from chapters 7,8, 9; MONTESQUIEU, [1748] *The Spirit of Laws*, Nugent, Thomas (trans.), 1914, book XI.



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Mandatory Bibliography, Handbooks:

MILLER, DAVID, *Political Philosophy. A very Short Introduction*, Oxford University Press, 2003, chapters 1 & 2.

Recommended Bibliography: Morris, Christopher W., «The State», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011, 544-560.

I.2. Locke and Montesquieu Entering into History. The Emergence of Modern Constitutionalism and of Human Rights as legal requirements- (2 classes).

**1. The emergence of Modern Constitutional Law. England's Bill of Rights of 1689. The political framework: the glorious revolution of 1688.**

**2. Jefferson and the American Declaration of Independence of 1776; the American Constitution of 1787, and the Bill of Rights of 1791. The political and legal framework: the American war of independence.**

**3. The French Declaration of the Rights of the Man and the Citizen of 1789. The political and legal framework: the French revolution.**

**4. *Marbury vs. Madison*: Human Rights as legal requirements. The judicial enforcement of human rights.**

**Bibliography:**



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Mandatory Bibliography, Selected Texts: *Marbury vs. Madison* 5 U.S. 137 (1803); Selections from Constitutional Bills of Rights.

Mandatory Secondary, Handbooks: TOMUSCHAT, CHRISTIAN, *Human Rights. Between Idealism and Realism*, Oxford University Press, 2003, 6-12.

Recommended Bibliography: Fioravanti, M., *Apuntes de historias de las constituciones*, Martínez Neira (trad.), Trotta, Madrid, chapter 2.

### I.3. From Constitutional Law to International Rights Law. (2 classes)

**1. Why should human rights be protected at the international sphere? What conception of political community does this protection imply?**

**2. The 19<sup>th</sup>.** Century: a few but relevant steps forward the internationalization of human rights formalization. The First World War and the League of Nations. The final emergence: the Second World War, the Nuremberg Trials and the emergence of the United Nations. The Universal Declaration of Human Rights.

3. From Declarations to Binding Documents. The International Covenant on Civil and Political Rights (ICCPR). The International Covenant on Social, Economic, and Cultural Rights (ICESCR).

4. The Foundation of Regional Human Rights Systems. The Inter-American Human Rights System. The European Convention on Human Rights. The African Charter of Human Rights (Banjul Charter).

5. Rights Generations: liberty rights, social rights, collective rights. Neo-constitutionalism and Neo-conventionalism. The moral nature of legal interpretation. The empire of justices and the contra-majoritarian premise. Reconsidering Rights: Which rights? Whose rights? How compelling?

**Bibliography:**



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Mandatory Bibliography, Selected Texts: ; *Roe vs. Wade*, 410 U.S.113, (1973) (selected extracts); DWORKIN, RONALD, *A Matter of Principle*, Clarendon Press, 1986, 33-38, 69-71;

Mandatory Bibliography, Handbooks and critical sources: Malison Dundes Renteln, *International Human Rights. Universalism Versus Relativism*, Sage Publications, 1990, 17-38; Zambrano, P., Saunders, W. (eds.) *Unborn Human Life and Fundamental Rights. Leading Constitutional Cases Under Scrutiny*, Peter Lang, 2019, 7-9; chapter 1, ps. 15-21; Concluding Reflections by John Finnis, 254-264; Absjorn Eijde, «Economic and Social Rights», in Janusz Symonides, *Human Rights. Concepts and Standards*, Ashgate, 2000, 110-128.

Recommended: TOMUSCHAT, CHRISTIAN, *Human Rights. Between Idealism and Realism*, Oxford University Press, 2003, 12-57; Buergethal, Thomas, «International Human Rights in a Historical Perspective», in Janusz Symonides, *Human Rights. Concepts and Standards*, Ashgate, 2000, 3-27.

Auxiliary Sources: Universal Rights Group website, available at "<https://www.universal-rights.org>".

## Part II: The Philosophical Grounds of Human Rights

### II.1. Introduction to Part II. (1/2 class)

**1. Why should we be concerned with the philosophical grounds of human rights? Which are the central questions?**

**2. Reconsidering Human Rights. What is a human right and how does it differ from other kind of rights? Title. Grounds. Catalogue. Categorical weight. The Centrality of Dignity.**

**3. Three political traditions, three conceptions of political community, three conceptions of political justice, three conceptions of rights. Political Liberalism, the social contract and rights as granted spheres of moral autonomy. The Natural Law Tradition, the political nature of the human being, and rights as**





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**granted spheres of moral integrity. Marxism, the oppressive nature of political power, and rights as spheres of equality.**

**Bibliography:**

Mandatory Handbooks: Jerome J., Shestack, «The Philosophical Foundations of Human Rights» in Janusz Symonides, *Human Rights: Concept and Standards*, Ashgate, 2000, 31-68; HERVADA, J., *Natural Right and Natural Law: A Critical Introduction*, Alban D'Entremont (transl.), Servicio de Publicaciones de Navarra, 2nd. Edition 1990, 19-40; 53-56; 70-75.

**II.2. Political Liberalism. (2 classes).**

**1. Grounds, title, catalogue and weight of human rights in the foundations of Liberalism. John Lock and modern natural rights. John Stuart Mill and the utilitarian approach. The harm principle and anti-paternalism.**

**2. Grounds, title, catalogue and weight of human rights in the consolidation of Liberalism. John Rawls and the deontological approach. From anti-paternalism to anti-perfectionism. Overlapping consensus as the grounds of justice.**

**3. Critical Reflections: are liberal rights absolute? Are liberal rights universal? Are liberal rights morally binding? Are liberal rights too many or too few?**

**Bibliography:**

Mandatory Bibliography, Selected Texts: LOCKE, J., *Second Treaty on Civil Government*, chapter 9; Selections from MILL, JOHN, S., *On Liberty*; RAWLS, JOHN, *Political Liberalism*, Columbia University Press, 2004 (expanded edition), introduction xviii-xxviii.



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Mandatory Bibliography, Handbooks and critical sources: Gregg, Samuel, *On Ordered Liberty*, Lexington Press, 2003, pgs. 13-69.

Recommended: HARMON, M. JUDD, *Political Thought. From Plato to the Present*, Mc. Graw Hill, 1964, 238-262; 377-386; Collins Jeffrey, «The Early Modern Foundation of Classic Liberalism», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011, 258-281; Jennings, Jeremy, «Early Nineteenth-Century Liberalism», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011, 331-341; Klosko, George, «Contemporary Anglo-American Political Philosophy», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011, 456-479.

### II.3. The Marxist and Critical Traditions. (1 class)

**1. Grounds, title, catalogue and weight of human rights in the foundations of Marxism. Marx and the negation of human rights. Human Rights as an oppressive invention of the *bourgeoisie***  
. Collectivism and the dilution of personal dignity into productive roles.

2. Grounds, title, catalogue and weight of human rights in contemporary Marxism. The Critical Legal Studies approach to human rights. Rights as an instrument of social resistance.

3. Critical Reflections: are critical rights absolute? Are critical rights universal? Are critical rights morally binding? Are critical rights too many or too few?

#### **Bibliography:**

Mandatory Bibliography, Selected Texts: selections from MARX, KARL, *The Holy Family* and *The Jewish Question*.

Mandatory Bibliography, Handbooks and critical sources: Morrison, Wayne, *Jurisprudence: from the Greeks to post-modernism*, Cavendish Publishing, 259-267; TUSHNET, MARK, «Critical Legal Studies. An Introduction to its Origins and Underpinnings», *Journal of Legal Education*, 36 (1986), 505-514.



Recommended: Harmon, M. JUDD, *Political Thought. From Plato to the Present*, Mc. Graw Hill, 1964, 387-408; foa Dienstag, Joshua, «Postmodern Approaches to the History of Political Thought», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011, 36-46; Beecher, Jonathan, «Early European Socialism», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011, 369-392.

#### II.4. The Natural Law Tradition. (2 classes).

**1. Grounds, title, catalogue and weight of human rights in the foundations of the Natural Law Tradition. Aristotle and Political Community as the *locus* for moral perfection.** The distinction between natural and positive justice.

2. Aquinas and natural Law. Natural Law and Positive Law: conclusion and determination.

3. Grounds, title, catalogue and weight of human rights in the New Natural Law School. The justifying relationship between basic human values, absolute moral principles and fundamental Rights.

4. Critical Reflections: are natural rights absolute? Are natural rights universal? Are natural rights morally binding? Natural rights, too many or too few?

#### Bibliography

Mandatory Primary Bibliography: Selections from ARISTOTLE, *Nicomachean Ethics*, Book V; AQUINAS, *Summa Theologiae*, I-II, q. 94, aa.4, 5,6; q. 95, aa. 1, 2; q. 96 aa.4, 5, 6; Gomez Lobo, Alfonso, *Morality and the Human Goods*, Georgetown University Press, 2002, 6-25; 44-47.

Mandatory Secondary Bibliography: sandel, Michael, *Justice. What's the Right Thing to do?* Farrar, Straus, and Girous, New York, 2009, chapter 8.

Recommended: FINNIS, J., *Natural Law and Natural Rights*, Oxford University Press, 2<sup>nd</sup>. Edition, 2011, chapter 3.



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Students will be required to:

- a) Read the mandatory bibliography corresponding to the topics that shall be addressed in each class, before coming to class. Students will be afforded a "reading guide" for each mandatory reading.
- b) Complete at least 10 out of 12 Socrative tests, in order to obtain the points corresponding to class participation. Socrative tests **can only be completed in class with the email address provided by UNAV**. Students who complete any of the Socrative tests out of class shall be penalized with the loss of all points corresponding to class participation. Name of Socrative room: PILARZAMBRANO
- c) Expose and coherently argue in class their own solutions to the topics addressed in the reading guides.
- d) Take active part in the group-discussions that the professor will raise around selected theoretical queries and hypothetical or real practical cases.

Requisites to do well in the course are thus: (a) Attendance and reading; (b) Participation in class discussion; (c) Submission of all assignments, papers, and exams on due time and in a thorough manner.

## Assessment

The final grade will be based on the following assessment criteria:

**A) Mandatory Written Work, 10 % of the final score.** (See directives in its corresponding tab).

**B) Class Participation: 10% of the final score.** Class participation shall be assessed with Woodclap- tests, together with active and relevant participation in class discussions. Students are required to complete at least 10 out of 12 tests, in order to obtain the points corresponding to class participation. Wood clap tests **can only be completed in class**. Students who complete any of the tests out of class shall be penalized with the loss of all points corresponding to class participation.

**B) Partial Exam: 30 % of the final score.** It will be proctored.

**C) Final Exam: 50% of the final score.** It will be proctored. Obtaining a minimum mark of 5/10 is mandatory for approving the course.

**NB:** These criteria also apply to the **extraordinary call for exams (June)**.

### CONVOCATORIA EXTRAORDINARIA

**NB:** The criteria that apply to the ordinary call, also apply to the **extraordinary call for exams (June)**.



### Office Hours

Mail: pzambrano@unav.es

- Office: 2700/Bibliotecas
- Students should ask for appointments by email.

## Bibliography and Resources

### Selected Texts:

1. Aristotle, *Nicomachean Ethics*, Book V.
2. Aquinas, *Summa Theologiae*, I-II, q. 94, aa.4, 5,6; q. 95, aa. 1, 2; q. 96 aa.4, 5, 6. [Find it in the Library](#)
3. Bickel, Alexander, *The Least Dangerous Branch. The Supreme Court at the Bar of Politics*, 2<sup>nd</sup> Edition, 1986. [Find the ebook at the Library](#)
4. Dworkin, Ronald, *A Matter of Principle*, Clarendon Press, 1986. [Find it in the Library](#)
5. Finnis, Jhon, *Natural Law and Natural Rights*, Oxford University Press, 2<sup>nd</sup> edition, 2011. [Find it in the Library](#)
6. Locke, John, [1689] *Second Treatise of Government*, edited by Macpherson, C.B., 1980. [Find it in the Library](#)
7. MARX, KARL, *The Holy Family and The Jewish Question*. [Find it at the Library](#)
8. Mill, John, S. [1859], *On Liberty*, Broadview Press, 2015. [Find it in the Library](#)
9. Montesquieu, [1748] *The Spirit of Laws*, Nugent, Thomas (trans.), 1914. [Find it in the Library](#)
10. Hobbes, THOMAS, [1651] *Leviathan*, edited by Malcolm, N., Oxford University Press, 2012. [Find it in the Library](#)
11. Rawls, John, *Political Liberalism*, Columbia University Press, extended edition, 2004. [Find it in the Library \(Ed. 2005\)](#)
12. Sophocles, [441 BC] *Antigone*, Aris & Philips, 1993. [Find it in the Library](#)

### 2) Mandatory and Recommended Secondary Sources:

1. Alison Dundes Renteln, *International Human Rights. Universalism Versus Relativism*, Sage Publications, 1990.
2. Beecher, Jonathan, «Early European Socialism», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011.
3. Collins Jeffrey, «The Early Modern Foundation of Classic Liberalism», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011.
4. Miller, David, *Political Philosophy. A very Short Introduction*, Oxford University Press, 2003.



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5. Gregg, Samuel, *On Ordered Liberty*, Lexington Press, 2003 [Find it at the Library](#)
6. Morris, Christopher W., «The State», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011.
7. Morrison, Wayne, *Jurisprudence: from the Greeks to post-modernism*, Cavendish Publishing, 2011. [Find it at the Library](#)
8. Fioravanti, M., *Apuntes de historias de las constituciones*, Martinez Neira (trad.), Trotta, Madrid.
9. Foa Dienstag, Joshua, «Postmodern Approaches to the History of Political Thought», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011.
10. Gomez Lobo, Alfonso, *Morality and the Human Goods*, Georgetown University Press, 2002-
11. Harmon, M.Judd, *Political Thought. From Plato to the Present*, Mc. Graw Hill, 1964. Harmon, M.Judd, *Political Thought. From Plato to the Present*, Mc. Graw Hill, 1964.
12. Hervada, J., *Natural Right and Natural Law: A Critical Introduction*, Alban D'Entremont (transl.), Servicio de Publicaciones de Navarra, 2nd. Edition, 1990. [Find it in the Library](#)
13. Jennings, Jeremy, «Early Nineteenth-Century Liberalism», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011.
14. Klosko, George, «Contemporary Anglo-American Political Philosophy», in *The Oxford Handbook of the History of Political Philosophy*, Oxford University Press, 2011.
15. sandel, Michael, *Justice. What's the Right Thing to do?* Farrar, Straus, and Girous, New York, 2009, chapter 8 [Find it at the Library](#)
16. Shestack, Jerome, «The Philosophical Foundations of Human Rights» in Janusz Symonides, *Human Rights: Concept and Standards*, Ashgate, 2000. [Find it in the Library](#)
17. Tomuschat, Christian, *Human Rights. Between Idealism and Realism*, Oxford University Press, 2003. [Find it in the Library \(2nd ed.\)](#)
18. TUSHNET, MARK, «Critical Legal Studies. An Introduction to its Origins and Underpinnings», *Journal of Legal Education*, 36 (1986), 505-514.259-267.