

Inequality and Human Rights

The University of Texas School of Law
Fall 2015
Unique 29100 LAW 397S
Unique 59920 PA 388K

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Course Description

This seminar will study various forms of and theories about ever-growing inequalities both within and between countries, and their implications for human rights law, policy and advocacy. Existing inequalities powerfully determine who is in a position to avoid harm and even reap profits from human rights violations. In addition to examining the nature and extent of existing inequalities, this seminar will consider whether and how human rights approaches might adequately respond to those inequalities, exacerbate them, or both.

The seminar will be organized around the visits of leading scholars and practitioners in the fields of inequality and human rights who will come to the Law School to present their research. Students will spend two weeks considering work by each speaker. In the first week, we will meet in a traditional seminar format to discuss the speaker's work. In the second week, the speakers will present their work in a public forum, and will engage in dialogue with seminar students, as well as with others in the university community who choose to attend the talk. Students will thus have the opportunity both to participate in critical discussion of the work in a small setting and to observe and contribute to a conversation with the authors in a broader audience.

Students are expected to participate actively in class discussions, write short critical papers in response to the readings for the seminar, and write a longer essay on a topic related to the themes that arise during the semester.

The seminar is open to law students as well as to non-law graduate and professional students with relevant background.

Recordings of the lectures are available on the Rapoport Center for Human Rights and Justice's website: <https://law.utexas.edu/humanrights/>

Schedule

August 31 (in class discussion): *Inequality and Human Rights: An Introduction (I)*

Readings:

- Kassi Tallent & Karen Engle, "Introduction," *A Brief History of International Human Rights Law and Practice* (2006, revised December 2013).
- Susan Marks, "Four Human Rights Myths" *LSE Legal Studies Working Paper No 10/2012* (2012).
- Frederick C. Harris, "The Next Civil Rights Movement," *Dissent Magazine*, August 15, 2015.

September 7: No Class (Labor Day Holiday)

September 8: Optional but recommended opportunity:

Robert Reich, Chancellor's Professor of Public Policy, UC Berkeley, and former Secretary of Labor in the Clinton Administration, will be presenting the LBJ Liz Carpenter Distinguished Lecture **in the Lady Bird Auditorium from 7pm**. He will discuss his forthcoming book: *Saving Capitalism - For the Many, Not the Few*.

You might also be interested in his film, *Inequality for All*, which will be available on reserve in the Law School library or on Netflix for those with a subscription.

September 14 (in class discussion): *Inequality and Human Rights: An Introduction (II)*

Readings:

- James Galbraith, "Inequality: Should We Care?" *What Everyone Needs to Know About Inequality* (forthcoming).
- Thomas Piketty, "Interview: Dynamics of Inequality," *New Left Review*, 85 (2014): 103 – 116.
- Yanis Varoufakis, "Egalitarianism's Latest Foe: A Critical Review of Thomas Piketty's Capital in the Twenty-First Century," *Real World Economics Review*, 69 (2014): 18 – 21, 32 – 35 (excerpt).
- Margot E Salomon, "Why Should it Matter that Others Have More? Poverty, Inequality and the Potential of International Human Rights Law," *Review of International Studies*, 37 (2011): 2137 – 2155.

Optional Additional Readings:

- Branko Milanovic, “Global Income Inequality in Numbers: in History and Now,” *Global Policy* 4:2 (2013): 198-208.
- Thomas Piketty, “Introduction,” *Capital in the Twenty-First Century*, (2013) Harvard University Press.
- “Global Wealth Inequality: What you never knew you never knew’, *YouTube* <<https://www.youtube.com/watch?v=uWSxzjyMNpU>>.
- “Wealth Inequality in America”, *YouTube*, <<https://www.youtube.com/watch?v=QPKKQnijnsM>>.
- Philip Alston, *Report of the Special Rapporteur on extreme poverty and human rights*, United Nations General Assembly: Human Rights Council 29th Session, Agenda item 3 (2015) A/HRC/29/31 (27 May 2015).

September 21 (in class discussion): *A New Greek Tragedy?: Inequality, Human Rights and Democracy*

Readings:

- Margot E Salomon, “Europe’s Debt to Greece,” *EJIL Talk*, August 24, 2015, <<http://www.ejiltalk.org/europes-debt-to-greece/>>.
- James Galbraith, “The Greek Drama and Democracy in Europe” *Forum Financier*, No. 4 (2015): 255 – 264.
- Philomila Tsoukala, “Household Regulation and European Integration: The Family Portrait of a Crisis,” *American Journal of Comparative Law*, 63 (2015): 401 - 453 (excerpt).
- David M Trubek and Alvaro Santos, “Introduction: The Third Moment in Law and Development Theory and the Emergence of a New Critical Practice,” *The New Law and Economic Development*, eds. David M Trubek and Alvaro Santos (Cambridge: Cambridge University Press, 2006): 1 – 18.

Optional Additional Readings:

- Cephas Lumina, *Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights – Mission to Greece (22-27 April 2013)*, United Nations General Assembly: Human Rights Council, 25th session, Agenda Item 3, A/HRC/25/50 (7 March 2014).
- “Timeline: The unfolding eurozone crisis,” *The BBC* (2012) <<http://www.bbc.com/news/business-13856580>>.
- Margot E. Salomon, “Of Austerity, Human Rights and International Institutions,” *European Law Journal*, 21:4 (2015): 521-545.
- Philomila Tsoukala, “Household Regulation and European Integration: The Family Portrait of a Crisis,” *The American Journal of Comparative Law*, 63 (2015): 401-453.

September 28 (public lecture): *A New Greek Tragedy?: Inequality, Human Rights and Democracy?*

- James Galbraith, Lloyd M. Bentsen Jr. Chair in Government/Business Relations and Professor of Government, LBJ School of Public Affairs, UT Austin
- Philomila Tsoukala, Professor, Georgetown University Law Center
- Alvaro Santos, Professor, Georgetown University Law Center

October 5 (in class discussion): *Croesus' World: Human Rights in the Age of Inequality*

Readings:

- Samuel Moyn, “A Powerless Companion: Human Rights in the Age of Neoliberalism,” *Law and Contemporary Problems*, 77, No. 4 (2014): 147 – 169.
- Wendy Brown, “‘The Most We Can Hope For...’: Human Rights and the Politics of Fatalism” *South Atlantic Quarterly*, 103, No. 2/3 (2004): 451 – 463.
- Samuel Moyn, “Do Human Rights Increase Inequality?” *The Chronicle of Higher Education*, May 26, 2015.
- Joel R. Pruce, “Floors, Ceilings, and Beams: What's Missing in Moyn's Account of Inequality,” *Humanity Journal Blog*, June 23, 2015.
- Samuel Moyn, “Pope Francis has Given up on Human Rights. That's a Good Thing,” *The Washington Post*, September 17, 2015
<<https://www.washingtonpost.com/posteverything/wp/2015/09/17/pope-francis-has-given-up-on-human-rights-thats-a-good-thing/>>.

Optional Additional Readings:

- Karl Marx, “On the Jewish Question” in *Early Writings* (Penguin Books, 1974).
- Dousti Lettinga and Lars van Troost (ed), “Can human rights bring social justice?: Twelve essays” *Amnesty International* (2015)
<https://www.amnesty.nl/sites/default/files/public/can_human_rights_bring_social_justice.pdf>.
- Sally Engle Merry, “Inequality and Rights: Commentary on Michael McCann’s “The Unbearable Lightness of Rights,”” *Law & Society Review*, 48: 2 (2014).
- Mathison Clore and Erik Voeten, “This is what two popes, Francis and Benedict, had to say to the United Nations,” *The Washington Post* (2015)
<<https://www.washingtonpost.com/blogs/monkey-cage/wp/2015/09/25/this-is-what-two-popes-francis-and-benedict-had-to-say-to-the-united-nations/?postshare=6991443206119367>>.

October 12 (public lecture): *Croesus' World: Human Rights in the Age of Inequality*

Samuel Moyn, Professor of History and Law, Harvard University

October 19 (in class discussion): *Right to Development After the Collapse of Development*

Readings:

- *Declaration on the Rights to Development*, U.N. General Assembly Resolution 41/128, 97th plenary meeting, A/RES/41/128 (4 December 1986).
- Balakrishnan Rajagopal, “Right to Development and Global Governance: Old and New Challenges Twenty-Five Years On,” *Human Rights Quarterly* 35, No. 4 (2013): 893 – 909.
- Balakrishnan Rajagopal, “Greece: Welcome to the Third World and Here are Some Lessons,” *The World Post*, 13 July 2015, <<http://www.huffingtonpost.com/balakrishnan-rajagopal/greece-welcome-to-the-third-world-and-here-are-some-lessons>>.
- Susan Marks, “Human Rights and Root Causes,” *The Modern Law Review*, 74, No. 1 (2011): 57 – 78.

Optional Additional Readings:

- Balakrishnan Rajagopal, “Counter-hegemonic International Law: rethinking human rights and development as a Third World strategy,” *Third World Quarterly*, 27:5 (2006): 767-783.
- Sundhya Pahuja, “Rights as Regulation: The Integration of Development and Human Rights,” in Bronwen Morgan (ed), *The Intersection of Rights and Regulation: New Directions in Sociolegal Scholarship* (Aldershot and Burlington: Ashgate Publishing Limited, 2007) 167 – 192.
- Sundhya Pahuja, “Global Poverty and the Politics of Good Intentions,” in Ruth Buchanan and Peer Zumbansen, (eds), “Law in Transition: Human Rights, Development and Transitional Justice” (Oxford and Portland, Oregon: Hart Publishing, 2014).
- Stephen Marks, “Human Rights to Development, between Rhetoric and Reality,” *Harvard Human Rights Journal*, 17 (2004).

October 26 (public lecture): *Right to Development After the Collapse of Development*

- Balakrishnan Rajagopal, Associate Professor of Law and Development, Department of Urban Studies and Planning, Founding Director, Program on Human Rights and Justice, Massachusetts Institute of Technology; Founder, Displacement Research and Action Network

November 2 (in class discussion): *This Changes Everything: Capitalism vs. the Climate*

Readings:

- Naomi Klein, *This Changes Everything: Capitalism versus the Climate* (New York: Simon & Schuster, 2014), Introduction, Chapter 2 and Chapter 11.

- Office of the United Nations High Commissioner on Human Rights, *The Effects of Climate Change on the Full Enjoyment of Human Rights* (30 April 2015) <http://www.thecvf.org/wp-content/uploads/2015/05/humanrightsSRHRE.pdf>.

Optional Additional Readings:

- “Climate change: tackling the greatest human rights challenge of our time,” Center for International Environmental Law and CARE International (2015). http://www.ciel.org/wp-content/uploads/2015/06/CCandHR_Feb2015.pdf
- Jane McAdam and Marc Limon, “Human Rights, climate change and cross-border displacement: the role of the international human rights community in contributing to effective and just solutions,” *Universal Rights Group* (2015) <http://www.universal-rights.org/urg-policy-reports/human-rights-climate-change-and-cross-border-displacement-the-role-of-the-international-human-rights-community-in-contributing-to-effective-and-just-solutions/>.
- John H. Knox, “United Nations Mandate on Human Rights and the Environment,” <http://www.environmentandhumanrights.org/wp-content/uploads/2013/05/UN-Mandate-on-HR-ENV.pdf>.
- Stephen Humphreys, “Introduction” in Stephen Humphrey (ed) *Human Rights and Climate Change* (Cambridge: Cambridge University Press, 2010) 1 – 34.
- Karen Engle, *The Elusive Promise of Indigenous Development: Rights, Culture, Strategy* (Durham and London: Duke University Press, 2010) 204 – 220.

November 11 (public lecture): *This Changes Everything: Capitalism vs. the Climate*

NOTE: this lecture takes place on a Wednesday, not Monday

- Naomi Klein, Puffin Foundation Writing Fellow, The Nation Institute; C.L. and Henriette Cline Visiting Professor in the Humanities, UT Austin

November 16 (in class discussion): *The Sustainable Development Goals: A Course Correction?*

Readings:

- *Draft Outcome Document of the United Nations Summit for the Adoption of the Post-2015 Development Agenda*, Draft Resolution, U.N. General Assembly, 69th Session, Agenda Item 13(a) and 115, A/69/L.85 (12 August 2015).
- Sakiko Fukudo-Parr and Desmond McNeill, “Post 2015: A New Era of Accountability?” *Journal of Global Ethics*, 11, No. 1 (2015): 10 – 17.
- Sakiko Fukudo-Parr and Joshua Greenstein, “Monitoring MDGs: A Human Rights Critique and Alternative” in Langford, M., Sumner, A. and Yamin, A. (eds.) *The Millennium Development Goals and Human Rights* (Cambridge: Cambridge University Press, 2015) Ch 18.
- Sakiko Fukudo-Parr, Alicia Ely Yamin and Joshua Greenstein, “The Power of Numbers: A Critical Review of the Millennium Development Goal Targets for Human

Development and Human Rights”, *Journal of Human Development and Capabilities: A Multidisciplinary Journal for People-Centered Development*, 15, No. 2-3 (2014): 105 – 117.

Additional Optional Readings:

- “Sustainable Development Goals,” <<https://sustainabledevelopment.un.org/?menu=1300>>.
- “Sustainable Development Knowledge Platform,” <<https://sustainabledevelopment.un.org>>.
- “MDGs Further Reading,” Taylor & Francis, <<http://explore.tandfonline.com/content/est/mdg/further-reading>>
- Margot E. Salomon, “Poverty, Privilege and International Law: The Millennium Development Goals and the Guise of Humanitarianism” *German Yearbook of International Law*, 51 (2008) 39 – 73.
- Philip Alston, “Ships Passing in the Night: The Current State of the Human Rights and Development Debate seen through the Lens of the Millennium Development Goals,” *Human Rights Quarterly*, 27: 3 (2005) 755-829.
- “Results of the list of indicators reviewed at the second IAEG-SDG meeting,” (2015), <<http://unstats.un.org/sdgs/files/meetings/iaeg-sdgs-meeting-02/Outcomes/Agenda%20Item%204%20-%20Review%20of%20proposed%20indicators%20-%20Nov%202015.pdf>>.
- Jason Hickel, “The Problem with Saving the World.” *Jacobin*, August 8, 2015 <https://www.jacobinmag.com/2015/08/global-poverty-climate-change-sdgs/>.

November 23 (public lecture): *The Sustainable Development Goals: A Course Correction?*

- Sakiko Fukuda-Parr, Vice-Chair of the UN Committee on Development Policy; Professor of International Affairs, The New School

November 30: Mini-conference: student paper presentations

December 2: Mini-conference: student paper presentations

Speaker Biographies

James Galbraith

James Galbraith is Lloyd M. Bentsen Jr. Chair in Government/Business Relations and Professor of Government at the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin, where he directs the Inequality Project. Galbraith served in several positions on the staff of the U.S. Congress, including executive director of the Joint Economic Committee. Recently, he served as informal advisor to Yanis Varoufakis, Greek Finance Minister (February through July 2015). He has authored or co-edited six books and two textbooks, most recently *The End of Normal: The Great Crisis and the Future of Growth* (2014). Galbraith writes frequently for

policy magazines and the general press, and is a senior scholar of the Levy Economics Institute. Galbraith also serves as chair of the Board of Economists for Peace and Security. He received an AB from Harvard University, an MA and MPhil from Yale University, and a PhD in economics from Yale University.

Philomila Tsoukala

Philomila Tsoukala is Professor of Law at the Georgetown University Law Center where her research focuses on the comparative position of family law in the political economy of liberal states, with a special emphasis on the gendered character of the legal regulation of the family and the market. She is a co-editor of the textbook *Family Law: Cases and Materials* (2012). Her recent law journal articles include “Household Regulation and European Integration: The Family Portrait of a Crisis,” *American Journal of Comparative Law* (forthcoming), “Euro Zone Crisis Management and the New Social Europe,” *Columbia Journal of European Law* (2013) and “Narratives of the European Crisis and the Future of (Social) Europe,” *Texas International Law Journal* (2013). She received an LLB from Aristotle University in Thessaloniki, an MA from Paris II, Pantheon-Assas and an SJD from Harvard Law School.

Alvaro Santos

Alvaro Santos is a Professor of Law at Georgetown University Law Center. He teaches and writes in the areas of international trade, law and economic development and transnational labor law. He serves on the editorial boards of the *American Journal of Comparative Law* and the *Law and Development Review*. He is co-editor of *Law and the New Developmental State: The Brazilian Experience in Latin America* (2013) and *The New Law and Economic Development: A Critical Appraisal* (2006). He is also the author of a number of articles and book chapters, including “The Trouble with Identity and Progressive Origins in Defending Labour Law” in *Critical Legal Perspectives on Global Governance* (2014) and “Carving Out Policy Autonomy for Developing Countries in the World Trade Organization: The Experience of Brazil and Mexico,” *Virginia Journal of International Law* (2012). Santos received a JD with high honors from Universidad Nacional Autónoma de México and an LLM and SJD from Harvard Law School.

Samuel Moyn

Samuel Moyn is Professor of Law and History at Harvard University, and researches and writes in the fields of human rights and humanitarian law, legal history, European intellectual history, and political theory. In addition to authoring numerous articles and book chapters in both history and law, he has written several books, including *The Last Utopia: Human Rights in History* (2010), *Human Rights and the Uses of History* (2014) and, most recently, *Christian Human Rights* (2015). He is editor of the interdisciplinary journal *Humanity*, co-editor of *Modern Intellectual History* and holds editorial positions at several other publications. In 2008, he was awarded the Guggenheim Fellowship. Before joining the faculty at Harvard in 2014, Moyn was a member of the history faculty at Columbia University. Moyn received a BA from Washington University, a JD from Harvard Law School and an MA and PhD from the University of California, Berkeley.

Balakrishnan Rajagopal

Balakrishnan Rajagopal is Associate Professor of Law and Development at the Department of Urban Studies and Planning and Founding Director of the Program on Human Rights and Justice at the Massachusetts Institute of Technology. He is also Founder of the Displacement Research and Action Network. Rajagopal is recognized as a leading participant in, and founder of, Third World Approaches to International Law. He has practiced law in both India and the United States and has also worked extensively with the UN, the World Commission on Dams, and other international organizations, agencies and NGOs in advancing human rights issues. In 1997, he was awarded Cambodia's highest civilian award for a non-national – the Royal Order of Sahametrei – by King Norodom Sihanoul in recognition of his work in that country as UN High Commissioner for Human Rights. He has published numerous articles in leading law journals and is the author of *International Law from Below: Development, Social Movements and Third World Resistance* (2003) and co-editor of *Reshaping Justice: International Law and the Third World* (2008). Rajagopal received an LLB from the University of Madras, India, an LLM from Washington College of Law, and an SJD from Harvard Law School.

Naomi Klein

Naomi Klein is an award-winning journalist, syndicated columnist, and author. Her most recent book, *This Changes Everything: Capitalism vs. The Climate* (2014), advances the theory that the climate crisis challenges us to abandon the core “free market” ideology of our time, restructure the global economy, and remake our political systems. Her previous works include international bestsellers *The Shock Doctrine: The Rise of Disaster Capitalism* (2007) and *No Logo: Taking Aim at the Brand Bullies* (1999). Klein is a contributing editor for *Harper's Magazine*, reporter for *Rolling Stone* and writes a syndicated column for *The Nation* and *The Guardian*. In 2004, her reporting from Iraq for *Harper's* won the James Aronson Award for Social Justice Journalism. In 2014 she received the International Studies Association's IPE Outstanding Activist-Scholar award, and in 2015 she received The Izzy Award honoring outstanding achievement in independent journalism and media. She holds an honorary Doctor of Civil Laws from the University of King's College, Nova Scotia.

Sakiko Fukuda-Parr

Sakiko Fukuda-Parr is Professor of International Affairs at the New School and Vice Chair of the United Nations Committee on Development Policy. She is a development economist who has published widely on a broad range of development policy-related issues including poverty, gender, technology, capacity development and agriculture. Her current research projects include the role of economic policy in realizing the right to food and the political economy of the Millennium Development Goals. Fukuda-Parr started her career at the World Bank working on agricultural projects before moving to the UN Development Programme (UNDP), where she worked on aid coordination in Africa. Between 1995 and 2004 she was director and lead author of the UNDP Human Development Reports. She is very widely published and has this year released her co-authored book, *Fulfilling Social and Economic Rights* (2015), and two books she co-edited, *The MDGs, Capabilities and Human Rights: The Power of Numbers to Shape Agendas* (2015) and *Critical and Feminist Perspectives on Financial and Economic Crisis*

(2015). Fukuda-Parr received a BA from Cambridge University, an MALD from the Fletcher School at Tufts University and an MA in Economics from Sussex University.