

## Mal for opprettelse av nye emner ved Det juridiske fakultet For saksforberedning og fremlegg til programråd/vedtaksorgan

Emnenavn: The Philosophy of Human Rights

### Behov, økonomi og ressurser.

#### Begrunnelse for opprettelse av emnet

Tekst adresseres til PMR

(This text has been written in coordination with Peris Jones, director of the Master's programme in *Theory and Practice of Human Rights*.)

The primary purpose of the course is to give the students in the Master's programme *Theory and Practice of Human Rights* the option of a more thorough introduction to the philosophy of human rights than what is otherwise limited by the three lectures devoted to philosophy in the obligatory introductory course HUMR 5131. Such a course will strengthen the multidisciplinary profile of the Master's programme, with a course based in the humanities, where the other elective courses are to a large degree based in law or social science.

The course meets a need in the Master's programme *Theory and Practice of Human Rights* by allowing students in the programme a more thorough understanding of the philosophy of human rights; such an understanding is useful also for students who do not specialize in the humanities, as it will give them a richer conceptual background for their work in human rights. While there is some introduction to the philosophy of human rights as part of HUMR 5131, the proposed course will allow students a more specialized and in-depth understanding of the philosophy of human rights, and the overlap with the introductory course will not be large (less than 30 %).

The HUMR programme has, in addition to the obligatory courses, room for four elective courses to be chosen by the students, two each semester. Currently, the choice is restricted to only five HUMR-coded electives being available. While we do believe it is a good thing that our students can also choose JUS-coded courses (as well as courses from other programs) as part of their electives, we also believe that the Master's programme *Theory and Practice of Human Rights* needs to offer a wider array of courses that reflects both the competences available at the faculty in the programme and not least the breadth and multidisciplinary variety of human rights research. While it is of course difficult to be certain in advance, we believe that the proposed course will attract HUMR students who now choose electives from other programmes. (For example, some of our students now choose as electives courses offered in the Master's programme in philosophy.)

We strive in general to develop existing courses in the HUMR programme, rather than create new courses, so as not to increase costs unduly, but it is not always possible to do so. The proposed course is a case in point, because none of the existing courses can be developed into a course in the philosophy of human rights. (That said, the course is meant to replace the course HUMR4510 "Human Rights, Politics and Legitimacy" – something we announced when HUMR 4510 was discontinued – which was proposed in the Spring of 2017 as a one-off course, but will be less

eclectic in the disciplines and subject-matter it covers, something we think will strengthen the course.)

In terms of the number of students taking the course, the course can also be expected to attract students from other disciplines, in particular philosophy and political science. If the course is accepted, we will enter into a dialogue with the persons responsible for the new degree in Philosophy, Politics and Economics to see if the course can be accepted as an elective in that degree. Hopefully, the course can also be interesting for students at the other Master's programs at the Faculty of law.

#### **Kostnadsberegning**

PMR sekretær fyller ut dette

#### **Ordinær**

#### **Ressurser**

- <i>Finansiering av emnet</i>	Undervisnings- og eksamensbudsjettet
- <i>Instituttilknytning</i>	SMR
- <i>Faglig ansvarlig</i>	Jakob Elster
- <i>Faglærere</i>	Jakob Elster
- <i>Administrativt ansvarlig</i>	Morten Slind Olsen
- <i>Programtilknytning</i>	HUMR

## Emnets innhold

### Innhold

Beskriv emnets faglige innhold, en kort presentasjon av innhold i emnet med fokus på faglige temaer. Teksten inngår på emnesiden og skal være statisk informasjon, dvs. ikke gjenstand for jevnlig revisjon.

While the concept of human rights today plays an important role both in law and in politics (domestic and international), it is also a concept which is firmly grounded in philosophical discussions of rights, in at least two ways. On the one hand, there is a long philosophical tradition discussing rights in general, and natural rights in particular, and which is arguably a precursor of the contemporary concept of human rights. On the other hand, the philosophy of human rights has in the last decade seen a turn away from the natural rights tradition and towards examining and providing a philosophical justification for the contemporary practice of human rights, in particular as this practice takes place in international law and politics.

Indeed, one of the main topics of discussion within the contemporary philosophy of human rights is whether human rights are best understood according to the so-called “orthodox” or “naturalistic” approach, where human rights are seen as belonging inherently to the natural rights tradition in philosophy, or according to the so-called “political” or “practical approach”, according to which the philosophy of human rights must take as its point of departure the role human rights actually play in contemporary politics, with the result that human rights might turn out to be quite different from natural rights. The course will cover both approaches to human rights, examining the merits of each approach, and discussing what is at stake in the debate between orthodox and political approaches to the philosophy of human rights.

In addition to discussing the question of how the concept of human rights should be understood, the course will also discuss other core questions in the philosophy of human rights, such as how human rights claims can be justified, the role human rights play in normative theory, how to deal with conflicts of rights, the relationship between moral human rights and legal human rights, and the relation between human rights and relativism. The course will also examine how the debate over different concepts of human rights is relevant for the discussion of these further questions. Finally, the course will address the legitimacy of the international human rights system and consider moral criticisms of this system.

### Hva lærer du?

Skriv 1-2 setninger (spisset i forhold til læringsutbyttet). Det skal i forhold til forrige punkt; “Innhold”, være fokus på sluttprodukt, kompetansemål/ konkrete ferdigheter. Eks: «Emnet skal gi studentene en grunnleggende forståelse av begreper, problemstillinger og arbeidsmetoder innen[...] Etter emnet skal studenten[...]» Teksten inngår på emnesiden og skal være statisk informasjon, dvs. ikke gjenstand for jevnlig revisjon.

The course will provide the students with an understanding of some of the main philosophical debates about human rights, concerning how the concept of human rights should be understood, how human rights can be justified and the moral relevance of human rights. After having taken the course the student will be able to critically participate in these debates and will have the foundation for understanding new questions arising within the philosophy of human rights.

### Læringskrav

Læringskravene fremgår på emnets semesterside og har klar sammenheng med litteraturlisten. Læringskravene skal deles inn i kvalifikasjonsrammeverkets tre kategorier. For å beskrive

<p>kunnskaper kan man for eksempel bruke formuleringer som 'kjenne til.', 'forstå.'. For å beskrive ferdighetsmål kan man for eksempel bruke formuleringer som 'anvende', 'analysere', mm.: Generell kompetanse kan for eksempel være ikke-fagspesifikke kunnskaper, ikke-fagspesifikke (overførbare) ferdigheter, eller holdninger. Læringskravene bør ellers være korte og konsise, og bør settes opp som en punktliste.</p>	
<i>Kunnskap</i>	<p>The students will have good knowledge of:</p> <ul style="list-style-type: none"> <li>- The concept of rights and its role in normative reasoning in moral and political philosophy</li> <li>- Different ways of justifying human rights</li> <li>- Different philosophical approaches to the concept of human rights, and the debate over these approaches</li> <li>- Questions concerning the legitimacy of human rights and the international human rights system</li> <li>- Different debates in the philosophy of human right, notably concerning the conflict of rights, the feasibility of human rights, gender and human rights and the relation between human rights and relativism</li> </ul>
<i>Ferdigheter</i>	<p>The students are expected to be able to:</p> <ul style="list-style-type: none"> <li>- Critically relate to and discuss, both orally and in writing, current debates in the philosophy of human rights</li> <li>- Write an essay with a clear argumentative structure which critically and analytically discusses questions in the philosophy of human rights</li> </ul>
<i>Generell kompetanse</i>	
<i>Er aktuelle kjønnsperspektiv inkludert i faget?</i>	<p>Yes. (In the current version of the litterature list, mainly through the inclusion of the chapter of Nussbaum's book. But in revising the list, I will try to make place for more of Nussbaum, as well as Onora O'Neill, on gender and human rights.)</p>
<p><b>Litteraturliste</b>  For emner som inngår i MiR programmet er sidetallsnormen 40 s. pr stp ved ba-nivå, 50-60 s. pr stp ved ma-nivå. For samfunnsvitenskapelige emner som f.eks HUMR-emner gjelder maks 80 s. pr stp.</p>	
<i>Innføringslitteratur</i>	<p>James Nickel 2007: <i>Making Sense of Human Rights, 2nd Edition</i>. Malden, MA, Blackwell Publishing</p>
<i>Hovedlitteratur</i>	<p>Preliminary list (to be revised) (793 pages). (All texts except the book Basic Rights are available electronically.)</p> <p><u>Books (several chapters)</u></p> <ul style="list-style-type: none"> <li>- Charles Beitz 2009, <i>The Idea of Human Rights</i>, Oxford University Press, ch. 1, 3-8: (178 pages)</li> <li>- Allen Buchanan 2013, <i>The Heart of Human Rights</i>, Oxford University Press, ch. 1-7 (273 pages)</li> <li>- James Griffin, 2009, <i>On Human Rights</i>, Oxford University Press, ch. 1-3 (74 pages)</li> </ul>

	<ul style="list-style-type: none"> <li>- Shue, H. (1996). <i>Basic rights : Subsistence, affluence, and U.S. foreign policy</i> (2nd ed.). Princeton, N.J: Princeton University Press. Ch 1-3 (75 pages)</li> </ul> <p><u>Articles/individual book chapters</u></p> <ul style="list-style-type: none"> <li>- Hart, H. L. A. "Are There Any Natural Rights?" <i>The Philosophical Review</i> 64, no. 2 (1955): 175-91. (17 pages)</li> <li>- Feinberg, Joel,. "The Nature and Value of Rights." <i>The Journal of Value Inquiry</i> 4, no. 4 (1970): 243-60. (18 pages)</li> <li>- Thomson, Judith Jarvis, <i>Self-Defense and Rights</i>, The Lindley Lecture The University of Kansas 1976 (Reprinted in Thomson, J., &amp; Parent, W. (1986). <i>Rights, restitution, and risk : Essays in moral theory</i>. Cambridge, Mass: Harvard University Press, p. 33-48) (16 pages)</li> <li>- Mackie, J. L. "CAN THERE BE A RIGHT - BASED MORAL THEORY?" <i>Midwest Studies In Philosophy</i> 3, no. 1 (1978): 350-59 (10 pages)</li> <li>- Waldron, Jeremy. "Rights in Conflict." <i>Ethics</i> 99, no. 3 (1989): 503-19. (17 pages)</li> <li>- Raz, Joseph. (1988). <i>The Morality of Freedom</i>. Oxford: Clarendon. Ch. 7. p. 165-192, (28 pages)</li> <li>- Kamm, F.M. (2007) <i>Intricate Ethics</i>, ch. 8, p. 237-284 (48 pages)</li> <li>- Nussbaum, M. (1999). <i>Sex &amp; social justice</i>. New York: Oxford University Press. Ch. 1 (26 pages)</li> <li>- O'Neill, O. (n.d.). <i>The dark side of human rights</i>. <i>International Affairs</i> (Cambridge : Trykt Utg.), 81 : 2005 : 2, S.427-439. (13 pages)</li> </ul> <p>Note on the preliminary literature list: If the course is accepted, I will revise the list, probably by having fewer chapters from Buchanan's book, in order to make room for other key writings.</p>
<i>Tillegglitteratur</i>	To be filled in later
<i>Hva er den kjønnsmessige balansen blant forfatterne oppsatt som hovedlitteratur?</i>	In the current version of the literature list, 4 out of 13 authors are women. In terms of pages, 103 of 793 pages are by women.
<i>Er aktuelle internasjonale rettskilder eller fremmedspråklig litteratur inkludert?</i>	All literature is in English. Legal sources are not (directly) relevant.
<b>Tillatte hjelpemidler til eksamen</b>	

## Om emnet

Generelle fakta om emnet		
Emnekode i FS (fylles inn etter eventuelt vedtak om opprettelse)	HUMR5xxx	
Emnenavn – bokmål		
Emnenavn – nynorsk		
Emnenavn – engelsk	The Philosophy of Human Rights	
Antall studiepoeng	10	
Eksamenssemester (sett kryss)	Høstsemesteret <input type="checkbox"/> Vårsemesteret <input checked="" type="checkbox"/> x	
Undervisningssemester (sett kryss)	Høstsemesteret <input type="checkbox"/> Vårsemesteret <input checked="" type="checkbox"/> x	
Studienivå (sett kryss)	BA (Bachelor) <input type="checkbox"/> MA (Master) <input checked="" type="checkbox"/> x	
Hvis emnet inngår i en profil/emnegruppe, oppgi hvilken.	Valgemne på HUMR-programmet	
Opptak og adgang		
Hvordan oppnås studierett til emnet? Studieprogram, evt andre opptak.	Opptak til HUMR-programmet. Emnet kan og være aktuelt for andre programmer ved UiO, som SUM (filosofi) og PPE-programmet (statsvitenskap).	
Har emnet obligatorisk undervisning?	Nei	
Forkunnskaper		
Obligatoriske	Ingen?	
Anbefalte	Students with no background in human rights studies are strongly advised to read the introductory readings.	
Faglig overlapp med andre emner		
List opp emner og angi overlapp i studiepoeng <2/3 overlapp = fullt overlapp Mellom 2/3 og 1/3 overlapp = halvt overlapp >1/3 overlapp = ingen overlapp	<b>Emne</b>	<b>Studiepoeng</b>

<b>Undervisning</b>			
<b>Undervisningsformer</b>	<b>Sett kryss</b>	<b>Antall timer</b>	
- Forelesninger	<input type="checkbox"/> x	22	
- Kurs/Seminar	<input type="checkbox"/>		
- Frivillige kurs-/fak.oppgaver	<input type="checkbox"/>		
- PBL-undervisning	<input type="checkbox"/>		
- Basisgrupper	<input type="checkbox"/>		
-Veiledning	<input type="checkbox"/>		
Beskriv eventuelle obligatoriske arbeidskrav eller undervisning			
<b>Eksamen</b>			
<b>Eksamensform</b>	<p>The examination consists of a written assignment, consisting of an essay of maximum 5000 words.</p> <p>The assignment will be assessed in two steps. The students must first deliver a draft paper of maximum 2000 words, on which they will receive comments from the teacher. A week after they receive these comments, students must turn in a final version of the assignment, of maximum 5000 words, text exceeding the word limit will not be read.</p> <p>The grade will be given based on the final version of the written assignment. It is obligatory to deliver both the draft paper and the final version of the written assignment.</p>		
<b>Eksamenstid</b>			
<b>Karakterregel (sett kryss)</b>	<b>A-F (bokstavkarakter)</b>	<input type="checkbox"/> x	
	<b>Bestått/Ikke bestått</b>	<input type="checkbox"/>	
<b>Gis det utsatt eksamen? (sett kryss)</b>	<b>Ja</b>	<input type="checkbox"/> x	
	<b>Nei</b>	<input type="checkbox"/>	
<b>Inngår emnet i kvoteordning for gjentak av bestått eksamen? Gjelder emner som kan inngå i graden Master i rettsvitenskap</b>	Nei		
<b>Språk i undervisning, litteratur og eksamen</b>			
	<b>Norsk</b>	<b>Engelsk</b>	
- Undervisning	<input type="checkbox"/>	<input type="checkbox"/> x	
- Litteratur (pensum)	<input type="checkbox"/>	<input type="checkbox"/> x	
- Eksamensoppgave	<input type="checkbox"/>	<input type="checkbox"/> x	
- Eksamensbesvarelse	<input type="checkbox"/>	<input type="checkbox"/> x	

