

Abstracts

Session 1

Politico-theological Foundations of Universal Human Rights: the Case of Maritain Prof Miguel Vatter (UNSW)

Today it has become nearly commonplace to understand the Universal Declaration of Human Rights as a new, positive “basic law” for global civil society. Yet the Kelsen inspired, positivist understanding of the UDHR was not the only available legitimation argument. Maritain was one of the crucial philosophical proponents and master architect behind the Universal Declaration of Human Rights. He was also the first to propose a “democratic” Christian political theology centered on the critique of sovereignty during and immediately after WW II. This paper discusses the link between these two sides of his political thinking. Why did he think that grounding universal human rights on a variant of Christian natural right theory could serve as the basis of a “democratic charter” acceptable across religions and cultures better than Kelsen’s legal positivism? Is there a connection between the “cosmopolitan” structure of universal human rights, in evident tension with nation-state sovereignty, and a Christian conception of political theology? In order to explain what I mean by Christian political theology and its link to universalism I shall also discuss in this paper the interpretation of Pauline theology in Peterson and Badiou.

The Politics of the ‘Human Rights Revolution’ in Postwar Europe Dr Marco Duranti (Sydney)

This paper traces how ‘the human rights revolution’ of the 1940s became a vehicle for the rehabilitation of discredited political forms in Western Europe. European human rights law was born as a reaction to the rising tide of communist, socialist and labour support in the immediate aftermath of the Second World War. In response to the growing strength of the Left, a diverse array of figures from ‘free-enterprise’ liberals to right-wing theorists of corporatism to proponents of state-subsidized Catholic education recast conservative political projects at home as international human rights projects. The history of the genesis of the European court of human rights reveals the polygenesis and polyvalence of human rights discourse at this time.

Session 2

The Universal Declaration of Human Rights in the History of Cosmopolitanism Prof Samuel Moyn (Columbia)

This paper examines the Universal Declaration of Human Rights in its historical situation, arguing that it expresses merely one among other candidates for the cosmopolitan allegiances of humanity at the time, and was forsaken for understandable reasons.

Session 3

The Source and Value of Human Rights Prof Derrick Darby (Kansas University)

This paper takes issue with a prevailing way of understanding the relationship between a conception of the source of human rights and a conception of their value. The main objective is to assess whether taking human rights to be ethical demands compels us to construe them as rights that persons possess irrespective of whether these demands are supported by some form of social recognition. After arguing against this perspective, I shall conclude with a few remarks about why proponents of human rights should not be troubled by the view that ethical demands must be afforded some measure of social recognition to count as rights.

Historical normativity and political rights **Prof Paul Patton (UNSW)**

This paper seeks a conception of rights that is not universalist but that shows how they can have normative and critical force. Two things are required for the existence of rights: some form of 'institutional respect,' as Derrick Darby has argued, and some form of justification that ensures the normative force and critical function of appeals to rights. While many theorists have assumed that moral justification is required, I will argue that rights require political justification, and that this should be grounded in the forms of moral and political discourse actually available to people.

Session 4:

Planned Misery and its Law **Prof Susan Marks (LSE)**

What would it mean to consider social suffering as so many forms of *planned misery*? How might this affect international law in its guise as 'humanity's law'? My paper will seek to elaborate the concept of planned misery and to develop its implications for the international protection of human rights and for the related projects of international criminal and transitional justice.

The Fortunes of "Natural Man": Robinson Crusoe, Political Economy and the Universal Declaration of Human Rights. **Dr Jessica Whyte (UWS)**

Reflecting on the drafting of the 1948 Universal Declaration of Human Rights, the Lebanese UN delegate Charles Malik noted that what was at stake was "the determination of the nature of man". This, he suggested, posed three central questions: Is man an animal like any other? What is the place of the individual human person in modern society? And which is prior, the individual or the state? Unsurprisingly, Malik's questions came to the fore during debate about the drafting of Article 27 (subsequently Article 29), which concerns the relation between individual personality and community. More surprisingly, the debate, which pitted the Australian and Soviet delegates against figures like Malik and Eleanor Roosevelt, revolved around the figure that epitomizes the myth of "natural man": Robinson Crusoe. Long before those who were tasked with formulating a declaration of human rights were to argue over Defoe's eponymous hero, Karl Marx had mocked the fondness of political economists for Robinson Crusoe stories. Far from representing man in his natural state, Marx saw Defoe's novel as offering "the anticipation of 'civil society'", which emerges from the breakdown of feudalism and the development of the new capitalist mode of production, which detached the individual from previous natural bonds. Political economists like Smith and Ricardo, he argued, are indebted to "the eighteenth century prophets" who imagine that this historically specific figure of man is an ideal that can be projected into the past. Crusoe, Marx argued, in a remark that could be applied to the Western delegates at the United Nations, thus comes to figure as "the Natural Individual appropriate to their notion of human nature, not arising historically, but posited by nature." Relying on Marx's insights, this paper will argue that just as the political economists relied on Crusoe to portray capitalist social relations as an expression of the very humanity of man, the natural man envisaged as the foundation of the Universal Declaration of Human Rights by many delegates was the atomized individual of twentieth century capitalism. It will then examine the consequences of this inheritance, by tracing some resonances between the contemporary politics of human rights and the neoliberal capitalism of this century.