The exams contained in this booklet are a compilation of all those that are relevant to this course which have been previously given by the Norwegian Centre for Human Rights.

The first exams, however, tested on both law and philosophy of human rights. The unrelated questions have been omitted.

These exams were prepared by Tore Lindholm.

These sample exams are provided for general review only.
FINAL EXAMINATION  
Law and Philosophy of Human Rights  
Master of Arts Degree in the Theory and Practice of Human Rights, 1999-2000  
14 March 2000, 9:00-15:00

The examination consists of three parts. Each part is given the same weight. Answer all three parts. Answer all questions under each part. There are no optional questions.

1. International handling of complaints (33 %)

[Institutions and Procedures Question Omitted]

2. Economic, social and cultural rights (33 %)

[Substantive Rights Question Omitted]

3. Islam and human rights (33 %)

Present arguments for and against the proposition: “Islam is incompatible with the system of internationally codified human rights”.

In your analysis you should address the status of women and of non-Muslims, you should deal with the influence of economic and political circumstances on allegedly Islamic positions on human rights, and you should address the potential for normative development.

In your discussion, indicate briefly how one might interpret and assess the repeated references to “Islamic Shari’ah”, respectively “Shari’ah”, in the “Cairo Declaration on Human Rights in Islam” (see A Compilation of International Instruments, Volume II pp 478-484).
The examination consists of three parts. Each part is given the same weight. Answer all three parts. Answer all questions under each part. There are no optional questions.

1. Regional conventions on human rights (33 %)

[Institutions and Procedures Question Omitted]

2. Economic, social and cultural rights (33 %)

[Substantive Rights Question Omitted]

3. The roles of human rights in international society (33%)

In *The Law of Peoples* (Cambridge Mass./London 1999, page 80) John Rawls states his view of the roles of human rights within a “reasonably just Society of Peoples” (i.e. within a reasonably just international society) as follows:

[H]uman rights [have] these three roles:

1. Their fulfillment is a necessary condition of the decency of a society’s political institutions and of its legal order.
2. Their fulfillment is sufficient to exclude justified and forceful intervention by other peoples, for example, by diplomatic and economic sanctions, or in grave cases by military force.
3. They set a limit to the pluralism among peoples.

Explain the point of each of the three roles assigned by Rawls to human rights, on the assumption that “human rights” refers to the system of human rights codified in international law. When it is useful you may distinguish between legal, political, and moral aspects.

Now, according to Rawls’ stipulation in *The Law of Peoples* “human rights proper” comprises first, Articles 3 to 18 of the UDHR “pending certain questions of interpretation”, and second, the rights described by the special conventions on genocide (1948) and on apartheid (1973).” Address, briefly, the following question: What difference does it make whether the term “human rights” is understood as used in the international instruments, or is understood as “human rights proper” in the narrow sense stipulated by Rawls?
Question 1

Can human rights be morally justified? If yes: how? If no, why not? According to the texts of the main international human rights instruments, what (if any) are the moral grounds of human rights? With a view to strengthening universal observance of human rights, is the quest for moral foundations of human rights norms necessary, or advantageous, or is such a quest rather superfluous, or even detrimental? Explain!

Question 2


Nickel goes on to propose that one such unifying idea for the list of human rights is safeguarding “a decent, or minimally good life for all people” (51). Discuss arguments for holding that human rights should not be expected to guarantee “a good life for every human being” or “happiness” or “perfection”. What are reasons for preferring, in this context, something less – that is to say: a “decent” or a “minimally good” life for every human being? Do you agree, or disagree, with such a view of the proper task of human rights? Explain!

Briefly indicate, on this background, the relationship between human rights norms and conceptions of social justice.

Question 3

Address first sub-question (a) and then either sub-question (b) or sub-question (c):

a. Spell out the main research problem raised by Risse et al., *The Power of Human Rights: International Norms and Domestic Change* (1999) and outline the solution proposed by this book. – Elaborating on your answer you should, briefly, indicate and clarify the following elements in Risse et al.’s theory about “the socialization of international human rights norms into domestic practices”:
   - the modes of social interaction that constitute the main causal mechanisms of norms socialization
• the levels of social interaction among the different categories of actors that play significant roles, at various stages, in the processes of socialization of human rights norms
• the characteristics of each phase in the “spiral model” of progressive human rights change, from “repression” to “rule-consistent behavior”
• and the main hypotheses that, according the argument of Risse et al., explain the transitions from one phase to the next phase in the five-phase model.

And Either

b. Discuss alternative explanations of progressive human rights change mentioned by Risse et al. Do you find that the arguments for the superiority of the explanatory approach submitted by Risse et al. are convincing? Why?

Or

c. Explain and assess the thesis propounded in the text quoted below (Risse et al.:238-239):
“Our most striking finding is that socialization processes are effective across a strikingly diverse range of regions, countries, socio-economic systems, cultures, and types of political regimes. … This general finding effectively disconfirms the notion that … international human rights are fundamentally alien to particular cultures or regions of the word (Huntington 1996).”

Question 4

a. In the system of international human rights, what are the main norms pertaining to freedom of religion or belief? To what extent (if any) is the right to freedom of thought, conscience and religion “absolute”? On what conditions may the freedom to manifest one’s religion or belief be subject to limitations? What is implied for the status of the right to freedom of religion or belief by ICCPR article 4 (on permissible derogation in time of public emergency), paragraph 2: “No derogation from article 6,7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision”?

b. Address two of the following four idealized cases and discuss, to the best of your understanding of the norms of freedom of religion or belief in conjunction with other pertinent human rights norms, the charge that human rights are violated when
• parent/legal guardians are not allowed to have their children attending mandatory schools exempted from religious or moral education that conflict with their own convictions
• women or men (in public jobs, in universities and schools, or in public spaces) are denied wearing certain garments that are mandatory according to their religious precepts and that do not jeopardize health, safety, morality or the rights of others
• parent/legal guardians whose religious precepts strictly forbid blood transfusions cannot have their sick children exempted from such medical intervention if their children’s health and possible survival depends on blood transfusion according to competent doctors

• religious communities are significantly disadvantaged by state legislation just because they stick to their religious precepts forbidding access to clerical positions in their communities for certain categories of people: homosexuals, non-white people, women, or people who are married.

c. In the present-day world, and as far as you know, does every religion and every non-religious worldview fully support the human rights norms of freedom of religion or belief? You may briefly indicate some cases. Why is principled and unqualified support for this freedom problematic from the perspectives of religions and other comprehensive worldviews? Comment!
Students are required to answer three of the four main questions below. Each one of the main questions has the same weight (33%).

**Question 1**

a. Indicate different senses in which human rights can be said to *exist*.

b. With the distinction between moral rights and legal rights in mind, spell out who are the *addressees* of internationally recognized human rights. Elaborate!

**Question 2**

Can human rights be justified on moral or on other extra-legal grounds? If yes: how? If no, why not? According to the texts of the main international human rights instruments, what (if any) are the moral grounds of human rights? With a view to strengthening universal observance of international human rights norms, is the quest for moral or other extra-legal foundations of human rights norms necessary, or advantageous, or is such a quest rather superfluous, or even detrimental? Explain!

**Question 3**

Address first sub-questions (a) below and then either sub-questions (b) or sub-questions (c):

a. Spell out the main research problem, or questions, raised by Risse et al., *The Power of Human Rights: International Norms and Domestic Change* (1999) and outline the solution, or answers, proposed by this book. – Elaborating on this you should, briefly, indicate and clarify the following elements in Risse et al.’s theory:

   • the modes of social interaction that constitute the main causal mechanisms of norms socialization
   • the levels of social interaction among the different categories of actors that play significant roles, at various stages, in the processes of socialization of human rights norms
   • the characteristics of each of the five phases in the “spiral model” of progressive human rights change
   • and the main hypotheses that explain, according to the argument of Risse et al., the transitions from one phase to the next phase.
And Either

b. Indicate and discuss alternative (or rivaling) explanations of progressive human rights change at the domestic level. Do you find that the arguments for the superiority of the explanatory approach submitted by Risse et al. are convincing? Why?

Or

c. Spell out and discuss some (at least two) of the “ten lessons for human rights practitioners” drawn in the final section of the last chapter of Risse et al. Indicate what are, in your view, some particularly important and relevant practical lessons to be drawn from the findings and conclusions of the book. You may of course include criticisms of the “practical lessons” that may be drawn from the book!

**Question 4**


Nickel goes on to propose that one such unifying idea for the list of human rights is safeguarding “a decent, or minimally good life for all people” (51). Discuss arguments for holding that human rights should not be expected to guarantee “a good life for every human being” or “happiness” or “perfection”. What are Nickel’s reasons for preferring, in this context, something less – that is to say: a “decent” or a “minimally good” life for every human being? Do you agree, or disagree, with such a view of the proper task of human rights? Explain!

Briefly indicate, on this background, the relationship between human rights norms and conceptions of social justice.
Students are required to answer question 1 and either question 2 or question 3 below. Each one of the questions answered has the same weight (50%)

Question 1


In your presentation, you should identify and spell out clearly the following elements in the spiral theory:

- the characteristics of each phase in the “spiral model” of progressive human rights change
- the levels of social interaction among different categories of actors that play significant roles, at various stages, in the processes of socialization of human rights norms
- the modes of social interaction that constitute the main causal mechanisms of norms socialization
- the main hypotheses that, according the spiral theory, explain the transitions from one phase to the next phase in the five-phase model.

In your critical discussion, you should address the following issues:

- Risse et al suggests some alternative explanations of progressive human rights change. Do you find the arguments for the superiority of the explanatory approach of the spiral theory convincing? Why?
- Does the spiral theory ignore causal factors that are generally important in order to explain domestic human rights socialization? Elucidate and, if possible, give examples!

Question 2

Discuss the problem of moral, extra-legal justification of universal human rights by addressing the following set of questions: According to the main international human rights instruments, what constitutes (if anything) the moral grounds of human rights? With a view to achieving universal acceptance and observance of human rights, is the quest for identifying and elaborating moral foundations of human rights a necessary undertaking? Or, is such a quest superfluous? Or, is it detrimental? Explain the issues at stake and discuss pro-arguments as well as counter-arguments.
Question 3

Outline and discuss Joseph Chan’s paper “A Confucian Perspective on Human Rights for Contemporary China”. In your answer you should address and elucidate:

- the distinction between a “fundamentalist” and an “ecumenical” approach to human rights justification
- the issue of compatibility of Confucian doctrine with human rights norms
- the grounds and content of modern human rights from a Confucian perspective, and
- the potential relevance of early Confucian doctrines to human rights in contemporary China.
FINAL EXAMINATION
Philosophy and Politics of Human Rights
Master of Arts Degree in the Theory and Practice of Human Rights, 2003-2004
23 January 2004, 10:00-16:00

You are required to answer all questions below. In the evaluation of the exam, questions 1 and 2 will be given equal weight (50% each).

Question 1

Michael Freeman (Freeman 2002) describes the “boomerang theory” developed by Risse and his colleagues (Risse, Ropp and Sikkin, 1999) as “the boldest attempt” to integrate the national and the international levels in human rights analysis.

Give a presentation of the main structure and logic of the theory (the spiral model), including the main actors involved, the levels of interaction between the main actors, and the modes of interaction among actors. Show how the theory explains the transition from one phase to the next in a five-phase model. (If you find it useful, you may sketch the model in your presentation).

Discuss critically strengths and weaknesses of the theory, and point out differences between this theory and a realist position on international relations.

Lastly, discuss briefly an example (a case) where you apply the theory in order to demonstrate its relevance and/or limitations.

Question 2

Justifying human rights by means of the idea of an overlapping consensus.

Focus on the question of rights to religious freedom.

a. First, clarify the idea of an overlapping consensus itself. What does it involve? Try to give a description of what may be said to belong to the so-called “freestanding” moral core of such a consensus on religious rights. Try also to give examples from philosophies, world views or religions of what would go beyond this overlap – that is: more comprehensive views of the world, ethics and religion which may be essential and decisive for those who hold them, but which nevertheless do not have to be held by others who subscribe to the core of the overlap.

b. Second, discuss the question of how such an overlapping consensus must be thought of if it is to be considered a justification of human rights at all. Can an overlapping consensus between differing philosophies, world views and religions be thought of as a “plural”, “cross-cultural”, “inter-religious”, “inter-belief” justification of human rights, as Lindholm believes, and Nussbaum seems to agree with? Or is David Little right when he suspects that such a view, if nothing is added, would amount to a case of relativism, and when he instead demands a “tradition-independent moral
standard” as the key to the justification of human rights? Is a plural justification of human rights condemned to be the slave of traditions?

You must answer both (a) and (b), above. However, you have two alternatives:

1. You may focus on (a) and (b) equally, **OR**

2. You may focus mainly primarily on either (a) or (b) and secondarily on the other. If you focus mainly on (a), attempt, at the very least, to outline the answer to (b). If you focus mainly on (b), attempt, at the very least, to outline the answer to (a).