HUMAN RIGHTS HISTORY: 
RIGHTS, REVOLUTIONS, REPUBLICS, 1750-1850 
THEORY & PRACTICE OF HUMAN RIGHTS LAWYERING, THROUGH THE WORK & WORKS OF WILLIAM SAMPSON IN COLONIAL IRELAND, NAPOLEONIC FRANCE AND REPUBLICAN AMERICA

Law A575, 4 cr, Autumn 2013 
Tues & Thurs, 3.30-5.20 p.m., Room 217, William H. Gates Hall

Course Description

Comparative constitutional history of rights lawyering. Read political trials from French Revolution in Europe through postcolonial Jacksonian American Republic. Learn basic rhetoric of early human rights discourse: on treason, seditious libel, racial equality, servitude, labor conspiracy, religious liberty, consumer protection, codification. Interdisciplinary graduate and advanced undergraduate students welcome; no prerequisites.

Content and Method: This is a legal history and jurisprudence seminar in which you will study early rights lawyering, including trial transcripts and other primary and secondary sources. Through this series of political trials, as well as contemporaneous historical, philosophical and satirical pamphlets published during the French Revolution in Europe, and crossing the Atlantic Ocean into the postcolonial American Republic, students will learn the basic rhetoric of early human rights discourse.

These historical cases include trials for treason, sedition, seditious libel, racial equality, forced servitude, labor conspiracy, religious liberty, and consumer protection, among others. By reading these records in their entirety, students will closely observe the employment of political theory in courtroom practice. Students will also regularly reenact portions of these authentic forensic examinations and powerful advocacy, uncovering the practice as well as theory behind early human rights lawyering.

Other historical forms of human rights advocacy will also be read and discussed in this seminar, including jurisprudential satire, polemical writing, and legal scholarship, and the relationship between these various forms and trial advocacy will be explored. A recurring theme will be close personal and philosophical links between such postcolonial jurisprudence, specifically including the American codification movement, and the literary nationalism expressed in Maria Edgeworth’s Ennui, James Fenimore Cooper’s The Pioneers, and Herman Melville’s Moby-Dick.

These seminar materials are biographically connected through the authorship and advocacy of William Sampson (1764-1836), perhaps the earliest international human rights lawyer, who was imprisoned, disbarred, and banished by Act of Attainder for his early cause lawyering. Although this fate prompted Sampson’s remark that “The advocates of the poor are few, and their reward is ruin” (1807), a
full quarter century later he could still declare himself “an advocate for the oppressed” (1831) as he continued to win historic constitutional victories in exile. Our Course Materials, specifically the posted Source Documents, suggest that the Sampsonian jurisprudence of postcolonial republican democracy realized 18th century ideals of human rights shared with Tom Paine; ultimately defeated the rival utilitarian appeal to the unchecked will of democratic political majorities then expressed by Jeremy Bentham; and thus placed individual and minority rights at the very center of this radical constitutionalism that William Sampson firmly established in 19th century America.

**Pedagogical Goals and Objectives:** In this course the student will be introduced to the theory and practice of human rights lawyering by learning to make and to understand arguments based on first principles, and in their full historical context. Goals include learning:

- What is a common law system?
- What is a constitution?
- What is codification?
- How to practice trial and appellate rights advocacy?
- How to practice critical and postcolonial jurisprudence?
- A range of historical legal doctrines, including free speech, religious freedom, criminal defense rights, labor law, and many others .
- Law and society through legal history!

**Instructor:** Associate Professor Walter J. Walsh teaches comparative law and constitutional history at the University of Washington School of Law and in the Law, Societies and Justice (LSJ) Program. He holds law degrees from University College Dublin (B.C.L.), Yale University (LL.M.), and Harvard University (S.J.D.), where he wrote his doctoral dissertation on early human rights advocacy, and has practiced and taught law in Europe and in the United States. He has also trained in his native Dublin, Ireland, at the Incorporated Law Society, and in Strasbourg, France, at the Institut Internacionale des Droits des l’Hommes. Professor Walsh is a founding faculty member and teaches each summer in the LSJ European Law & Society Program at the UW Rome Center.

**Assessment:**

1) **Required Course Website Postings**, required response to each Book Chapter & the accompanying posted Source Documents, no later than 6 p.m. before next day class discussion, minimum 500 words per week (for 40% of final grade);

   **PLUS**

2) **Class Participation** in discussions, and also in regular role plays including reenacting actual courtroom examinations and advocacy selected from historic trial pamphlets (for 10% of final grade);

   **PLUS**

3) 15-20 page **Paper** on human rights, legal or constitutional history, jurisprudence, cause lawyering theory and practice, or any related topic, selected by student with instructor’s approval by end of Week 2, and due last day of exam period (for 50% of final grade).

For all inquiries, please contact Professor Walsh’s assistant Ms. Sarah Pate at sepate@uw.edu or (206) 616-2583 .
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WEEK 1
Tues, 9/24, read and post on:
Chapter 1. Postcolonial Radical
and assigned documentary sources posted on our UW Canvas course website

Human Rights History: Rights, Revolutions, Republics
https://canvas.uw.edu/courses/849974

Chapter 2. One Hundred Halberdiers
and assigned documentary sources posted on our UW Canvas course website:
views of law, constitution and history in late 18th century America, Ireland, and France

Thurs, 9/26, read and post on:
Chapter 3. The Furious Democrats
and assigned documentary sources posted on our UW Canvas course website:
Trial of King v. Rowan (Dublin 1794) (seditious libel, due process, constitutional theory)
1st Trial of King v. Proprietors of Northern Star (Dublin 1794) (seditious libel, due process, constitutional theory)
Trial of King v. Drennan (Dublin 1794) (seditious libel, due process, constitutional theory)
2nd Trial of King v. Proprietors of Northern Star (Dublin 1795) (seditious libel, due process, constitutional theory)
Trial of King v. Reverend Jackson (Dublin 1795) (treason, due process, constitutional theory)
WEEK 2

Tues, 10/1, read and post on:

Chapter 4. *A Daring Insolence*

and assigned documentary sources posted on our UW Canvas course website:

- *Lion of Old England* (Belfast 1794) (jurisprudential satire on imperialism)
- *Trial of Hurdy Gurdy* (Belfast 1794) (jurisprudential satire on free speech)
- *Advice to the Rich* (Dublin 1796) (political tract predicting 1798 rebellion if no reform)
- *Trial of King v. Orr* (Belfast 1797) (treason, due process, constitutional theory)
- *Trial of King v. Finerty* (Belfast 1797) (sedition libel, due process, constitutional theory)

Thurs, 10/3, read and post on:

Chapter 5. *Profligacy, Villainy and Obscenity*

and assigned documentary sources posted on our UW Canvas course website:

- Maria Edgeworth’s *Ennui* (London & Dublin 1809) (colonial literary nationalism)

Chapter 6. *A Collier Bound for Whitehaven*

and assigned documentary sources posted on our UW Canvas course website:

- William Sampson’s *Appeal to the Public* (Dublin 1798) (due process and fair trial)

WEEK 3

Tues, 10/8, read and post on:

Chapter 7. *The Unhappy Warriors*

and assigned documentary sources posted on our UW Canvas course website:

- *Act of Attainder* (1798) (Banishment Act)
- *Rolls of the Kings’ Inns* (1798) (“struck off” the List of barristers, disbarment)

Chapter 8. *Two Friars, A Fidalgo, and Several Fish Carriers*

and assigned documentary sources posted on our UW Canvas course website:


Thurs, 10/10, read and post on:

Chapter 9. *They Have No Tithes*

and assigned documentary sources posted on our UW Canvas course website:

- *Open Letter to Lord Spencer* (1807) (colonial versus republican law and society)

Chapter 10. *Curricles, Coaches, Tandems and Gigs*

and assigned documentary sources posted on our UW Canvas course website:

- *In re Emmet* (New York 1805) (legal profession, religious barriers to admission)
- *In re Sampson* (New York 1806) (readmission, future rule against noncitizens)

WEEK 4

Tues, 10/15, read and post on:

Chapter 11. *A Happy Asylum from Persecution and Injustice*

and assigned documentary sources posted on our UW Canvas course website:

- *Memoirs of William Sampson* (1807) (the early publishing industry, republicanism,
federalism, immigration)

Chapter 12. The Few Straggling Fees
and assigned documentary sources posted on our UW Canvas course website:
view of early legal profession, beginnings of fusion between counselors (barristers) and attorneys (solicitors)

Thurs, 10/17, read and post on:
Chapter 13. An Editor’s Duty
and assigned documentary sources posted on our UW Canvas course website:
Trial of Arcularius v. Coleman (New York 1807) (libel of public official, free speech)
Trial of Livingston v. Cheetham (New York 1807) (libel of public official, free speech)
Trial of Bonneville v. Cheetham (New York 1810) (libel of Tom Paine’s lady companion, free speech)

WEEK 5
Tues, 10/22, read and post on:
Chapter 14. The Dominion of Prejudice
and assigned documentary sources posted on our UW Canvas course website:
Trial of People v. Little (New York 1808) (battery, race, marriage)
Trial of Commissioners of the Alms-House v. Whistelo (New York 1808) (paternity, race, science, jurisprudential satire)
Trial of People v. Broad (New York 1809) (battery, slavery)
Trials of People v. Johnson and People v. Hill (New York 1811) (murder, race)

Thurs, 10/24, read and post on:
Chapter 15. A Fine Library
and assigned documentary sources posted on our UW Canvas course website:
Trial of Parker v. McDougal (New York 1808)
Trial of People v. Lieutenant Renshaw (New York 1809) (the end of duelling, honor)
Trial of People v. Captain Whitby (New York 1812) (jurisprudential satire, impressment, individual responsibility for crimes under international law, War of 1812)
Trial of People v. Reverend Parkinson (New York 1811) (assault and battery, gender)
Samuel Woodworth’s Beasts at Law or Zoologic Jurisprudence; A Poem, Satirical, Allegorical, and Moral (New York 1811) (jurisprudential satire, natural science)

WEEK 6
Tues, 10/29, read and post on:
Chapter 16. These Sleek and Pampered Masters
and assigned documentary sources posted on our UW Canvas course website:
Trial of People v. Melvin (New York 1811) (trial of the New York journeymen cordwainers for a common law conspiracy to raise their wages, 2nd American labor trial, labor history, trade unions, the closed shop, constitutions v. common law, jurisprudential
Thurs, 10/31, read and post on:
Chapter 17. *A Comfortable Fireside with Ease and Plenty*
and assigned documentary sources posted on our UW Canvas course website:
views of family, gender, legal profession
Chapter 18. *Men of Letters and of Science*
and assigned documentary sources posted on our UW Canvas course website:
William Cooper’s *Guide in the Wilderness* (Dublin 1810) (early publishing, origins of
American literary nationalism, James Fenimore Cooper’s *The Pioneers*)

WEEK 7
Tues, 11/5, read and post on:
Chapter 19. *The First Free Exercise Case*
and assigned documentary sources posted on our UW Canvas course website:
*Trial of People v. Philips* (New York 1813) (1st victory for religious freedom in
constitutional history, also origin of priest-penitent evidentiary privilege)
Chapter 20. *An Irish-American Cultural History*
and assigned documentary sources posted on our UW Canvas course website:
views of antebellum law and society

Thurs, 11/7, read and post on:
Chapter 21. *Stuffs of Foreign Manufacture*
and assigned documentary sources posted on our UW Canvas course website:
*Address of the American Society for the Encouragement of Domestic Manufacturers, to
the People of the United States* (New York 1817) (origins of lobbying in Congress,
economic history)
Chapter 22. *Is a Whale a Fish?*
and assigned documentary sources posted on our UW Canvas course website:
*Trial of Maurice v. Judd* (New York 1819) (consumer protection legislation, natural
history, zoology, history of science, philosophy, jurisprudential satire, early publishing,
origins of American literary nationalism, Herman Melville’s *Moby-Dick*)

WEEK 8
Tues, 11/12, read and post on:
Chapter 23. *Not to Set Out Like a Lordling*
and assigned documentary sources posted on our UW Canvas course website:
William Curran’s *Life of John Philpott Curran* (New York 1820) (cause lawyering)
*Trial of People v. Goodwin* (New York 1821) (criminal procedure)
*In re Niven* (1822) (legal profession, attorney malpractice)
Chapter 24. *The Law of a Free People*
and assigned documentary sources posted on our UW Canvas course website:
William Sampson’s *Anniversary Discourse Showing the Origin, Progress, Antiquities, Curiosities, and Nature of the Common Law* (New York 1824) (jurisprudence, codification, critical theory, comparative law, jurisprudential satire)

Thurs, 11/14, read and post on:

**Chapter 25. Codification the Rage**

and assigned documentary sources posted on our UW Canvas course website:
- Pishey Thompson’s Sampson’s *Discourse and Correspondence with Various Learned Jurists, upon the History of the Law* (Washington 1826) (jurisprudence, codification, critical theory, comparative law)
- James Kirke Paulding’s, *The Merry Men of Gotham* (New York 1826) (jurisprudential satire)
- Bouvier’s *Law Dictionary* (New York 1831) (common law, jurisprudence)

**Chapter 26. Hate, Speech and Freedom**

and assigned documentary sources posted on our UW Canvas course website:
- *Trials of People v. Moore and People v. M’Evoy* (New York 1824) (the Greenwich Village Orange Day riots, hate speech, religious freedom, religious speech)

**WEEK 9**

**Tues, 11/19, read and post on:**

**Chapter 27. A House Wanting Every Kind of Repair**

and assigned documentary sources posted on our UW Canvas course website:
- *Theobold Wolfe Tone’s Life* (Washington 1826) (republicanism, postcolonial literary nationalism, historiography)

**Chapter 28. Broken Promises**

and assigned documentary sources posted on our UW Canvas course website:
- *Supreme Court Appeal of Odgen v. Sanders* (Washington 1826) (constitutional theory, state bankruptcy laws, critical jurisprudence, codification, jurisprudential defeat by Sampson and fellow codifier Edward Livingston provokes federalist Justice Marshall’s only dissent!)

**Thurs, 11/21, read and post on:**

**Chapter 29. Religious Distinctions and Quarrels**

and assigned documentary sources posted on our UW Canvas course website:
- William Sampson’s *Address of the Meeting of Irishmen in New York to the People of Ireland* (New York 1825) (religious freedom, international campaign for Catholic emancipation in Britain)
- *Trial of the Philadelphia Orange Day Rioters* (Philadelphia 1831) (the Philadelphia Orange Day riots, hate speech, religious freedom, religious speech)

**Chapter 30. Sampson’s Postcolonial Jurisprudence**

and assigned documentary sources posted on our UW Canvas course website:
- views of jurisprudence
WEEK 10
Tues, 11/26, read and post on:
  Chapter 31. *Good Company, Rural Scenery, Flowers, Blossoms, Fruit, Music and Song*
  and assigned documentary sources posted on our UW Canvas course website:
  William Cooke Taylor & William Sampson’s *History of Ireland* (New York 1833)
  (postcolonial literary nationalism, historiography)

**NOTE: Due Date for Posting Student Paper Drafts for Class Discussion!**

Thurs, 11/29, No Class
Happy Thanksgiving!

WEEK 11
Tues, 12/3, read and post on:
  Student Paper Drafts and Presentations

Thurs, 12/4, No Class
End of Quarter

*FINAL PAPER DUE LAST DAY OF DECEMBER EXAM PERIOD!*

**Assessment:**

i) **Required Course Website Postings**, required response to each Book Chapter & the accompanying posted Source Documents, no later than 6 p.m. before next day class discussion, minimum 500 words per week (for 40% of final grade);

*PLUS*

ii) **Class Participation** in discussions, and also in regular role plays including reenacting actual courtroom examinations and advocacy selected from historic trial pamphlets (for 10% of final grade);

*PLUS*

iii) **15-20 page Paper** on human rights, legal or constitutional history, jurisprudence, cause lawyering theory and practice, or any related topic, selected by student with instructor’s approval by end of Week 2, and due last day of exam period (for 50% of final grade).

**Posting Requirement:** On our UW Canvas course website, you must post something no later than 6 p.m. the day before each Tuesday and Thursday class, leading our discussion and showing that you have carefully read and considered the assigned book chapter and the documentary sources. For clarity, please open your own new replies for each chapter. For this purpose, every week you should write and post at least 2 double-spaced pages of your own thoughts (500 words or more). What should you write about? The choice is yours: you may ask
and discuss your own question raised by the materials. In the responses, you will hear the reactions of other readers and you will have the opportunity to engage directly with those who have raised their own questions.

Draft Presentation: By Week 10 (Tuesday, 11/26), please post the 1st Draft of your 15-20 page final paper on our Canvas course website for all of us to read and query. During the following Week 11 (Tuesday, 12/3), you will discuss your draft work-in-progress with our class, so that when you submit it later your final paper takes into account any written or classroom perspectives or information that you consider germane.

The Course Readings, and accompanying Documentary Sources: Your weekly readings typically consist of two Book Chapters for each class (one for first hour, one for second hour), together with accompanying assigned documentary sources. Your two book chapters and your other readings for the coming week are posted on our UW Canvas Human Rights History: Rights, Revolutions, Republics course website. The structure of this class requires that we all read the text together, and that you post your simultaneous reactions to each chapter at the same time as the narrative and theory unfold.

Office hours: My office hours are every Thursday before class (1.30-3.00 p.m.), or speak to me during class to pick any other time you need to meet, or else make an appointment at your convenience through Ms. Pate (sepate@uw.edu or (206) .616-2583).

W.J.W