

Textbook Information:

All course materials, including historic trial pamphlets, are posted on:
UW Canvas course web page, Human Rights History: Rights, Revolutions, Republics, Law A575

Professor Walter J. Walsh, University of Washington School of Law, Winter 2021

HUMAN RIGHTS HISTORY: RIGHTS, REVOLUTIONS, REPUBLICS

Theory and Practice of Human Rights Lawyering through the Work and Works of William Sampson in Colonial Ireland, Napoleonic France, and Republican America

Law A575, 4 cr, Winter 2021

Mon & Wed, 1.30-3.20 pm (PST), William H. Gates Hall & Virtual Classroom

HUMAN RIGHTS HISTORY ZOOM VIRTUAL CLASSROOM:

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. JD, LLM, MJ, MA, PhD students and visiting scholars encouraged. Course Meets PhD in Law ethics requirement. Satisfies most interdisciplinary Graduate Certificates. Asynchronous virtual classroom Distance Learning option accommodates all time zones.



Content and Readings: This is a legal history and jurisprudence course 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. Class exercises will involve participating in real and virtual discussions and role plays, including reenacting actual courtroom examinations and verbatim advocacy selected from historic trial pamphlets.

Other historical forms of human rights advocacy will also be read and discussed in this course, 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*.

All of your required readings and texts are posted on our UW Canvas course website **Human Rights History: Rights, Revolutions, Republics** Syllabus for LAW A 575 A Wi 21: Human Rights History: Rights, Revolutions, Republics (uw.edu). These course 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 Sampson's 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 the radical constitutionalism that Sampson advocated in 19th century America.

The weekly Course Readings, and accompanying Documentary Sources typically consist of two or three Book Chapters for each class, together with accompanying assigned primary documentary sources. Your book chapters and your other readings for the coming week are posted on our UW Canvas course website Human Rights History: Rights, Revolutions, Republics, Law A575. The structure of this class requires that we all read these historic texts together, and that you post your simultaneous reactions to each chapter at the same time as the narrative unfolds.

Format and Method: All classes will be offered synchronously in Seattle and will include class discussion. Recordings will be posted on our UW Canvas course webpage shortly after each class. You may also choose an asynchronous Distance Learning format. The synchronous Distance Learning option will allow you to participate simultaneously in all class discussions using Zoom. The alternative asynchronous Distance Learning option allows you to watch all class recordings afterwards at a time of your own choice. The synchronous and asynchronous Distance Learning options are available for both international and US students in all time zones. Students also post virtual reactions to the readings and historic primary source materials before our classroom discussions, and post video reenactments of actual courtroom examinations and verbatim advocacy selected from historic trial pamphlets. Even if you choose the asynchronous Distance Learning option, you must still follow our synchronous class reading schedule and regularly make your written postings on our UW Canvas course discussion boards before each class, so that all students will concurrently gain the full benefits of participating in our virtual online classroom.

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

- - What are human rights?
 - What is a common law system?
 - What is a civil law system?
 - What is codification?
 - What is a constitution?
 - What are the ethics of cause lawyering?
 - 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 (BCL), Yale University (LLM), and Harvard University (SJD), 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 Internationale des Droits des l'Hommes. Professor Walsh is a founding faculty member and Co-Director each summer in the LSJ European Law & Society Program at the UW Rome Center.

Student Learning Technologies (UW-IT) Support: Contact help@uw.edu or 206-221-5000 for UW NetID and general networking support. UW-IT also maintains a help desk at the Odegaard Undergraduate Library. Very valuable tips on successful online and distance learning practices are set out at [UW Academic Support Programs \(Links to an external site.\)](#).

Access and Accommodations: To request academic accommodations due to a disability, please contact Disability Resources for Students (DRS), at 011 Mary Gates Hall or 206-543-8924 or uwdrs@uw.edu or disability.uw.edu. (Links to an external site.) If you have a letter from DRS, please provide the letter to the Instructor so you can discuss the accommodations you might need in this class.

Religious Accommodations: Washington state law requires that the University of Washington develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at [Religious Accommodations Policy \(https://registrar.washington.edu/staffandfaculty/religious-accommodations-policy/\)](https://registrar.washington.edu/staffandfaculty/religious-accommodations-policy/) (Links to an external site.). Accommodations must be requested within the first two weeks of this course using the [Religious Accommodations Request form \(https://registrar.washington.edu/students/religious-accommodations-request/\)](https://registrar.washington.edu/students/religious-accommodations-request/) (Links to an external site.).

Assessment:

i) Human Rights History Course Required Website Postings, required UW Canvas virtual response to assigned Source Documents, no later than 10 am Pacific Standard Time (PST) same day as upcoming class. While each class module chapter discussion does require some brief response, your contributions need not all be equally weighted. Minimum 100 words *per class*, not per chapter (for 20% of final grade).

PLUS

ii) Student Trial Reenactments from historic trial pamphlet reports, required for most classes (ie, 14/18), resulting video recorded and uploaded on Zoom or Panopto and posted no later than 12 noon Pacific Standard Time (PST) same day as upcoming class. Also briefly explain why your chosen trial extracts are pivotal, why you picked them out from your assigned single trial pamphlet. Roughly 3 minutes per

student reenactor, joint readings are encouraged with student time averaged, but strictly no longer than 5 minutes per student (for 15% of final grade).

PLUS

iii) 3-Hour Open-Book Final Examination (for 65% of final grade) *OR* 15 page Paper on human rights, legal or constitutional history, jurisprudence, cause lawyering theory and practice, ethics, or any related topic, selected by student with instructor's approval by end of Week 2, and due last day of exam period (for 65% of final grade). You must either write a final exam or produce a final paper of high scholarly quality.

The Posting Requirements--On our UW Canvas course website, you must post something in writing no later than 10 am (PST) before each Monday and Wednesday afternoon class, leading our discussion and showing that you have carefully read and considered the assigned texts. For clarity, please open and label your own new replies for each class day. You may ask and discuss any question raised by the materials. In the replies, you will hear the reactions of other readers and you will have the opportunity to engage directly with students who raise different questions. If you have been assigned a student trial reenactment, you must post your video no later than 12 pm noon (PST) that class day. If you are writing a final paper instead of a final exam, by Week 9 (Monday, 3/1, 12 noon PST), please post the 1st Draft of your 15-page final paper on our course website for all of us to read and query. When you submit it later on the last day of the exam period, your final paper should take into account any class feedback that you consider germane.

Office hours: My virtual Zoom office hours are every Wednesday afternoon (3.30-5 pm PST), or else make an appointment at any other time convenient to you by email from within UW Canvas or by texting my cell phone at (206) 321-6348. My office in the University of Washington School of Law is Room 308, William H. Gates Hall, 4293 Memorial Way NE, Seattle, WA 98195, USA.

For all registration inquiries, please contact Professor Walsh at wawa@uw.edu or UW law school Academic Services at mylaw@uw.edu. Undergraduate students may also contact UW Honors Program Associate Director Julie Villegas at villegas@uw.edu or (206) 543-7444 . . .

Human Rights History course syllabus follows:

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Professor Walter J. Walsh, University of Washington School of Law, Winter 2021

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[HUMAN RIGHTS HISTORY ZOOM VIRTUAL CLASSROOM: \(Links to an external site.\)](#)

<https://washington.zoom.us/j/91862684475> (Links to an external site.)

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. JD, LLM, MJ, MA, PhD students and visiting scholars encouraged. Course Meets PhD in Law ethics requirement. Satisfies most interdisciplinary Graduate Certificates. Asynchronous virtual classroom Distance Learning option accommodates all time zones.

WEEK 1

Mon, 1/4, read and post on:

Hexennials I-V

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/1438925/assignments/syllabus>

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

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)

Wed, 1/6, read and post on:

Hexennial V

Chapter 3. ***The Furious Democrats***

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

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)

Lion of Old England (Belfast 1794) (jurisprudential satire on imperialism)

Trial of Hurdy Gurdy (Belfast 1794) (jurisprudential satire on free speech)

WEEK 2

Mon, 1/11, read and post on:

Hexennial VI

Chapter 4. ***A Daring Insolence***

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

Trial of King v. Reverend Jackson (Dublin 1795) (treason, due process, constitutional theory)

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 (Dublin 1797) (truth no defense to seditious libel)

Wed, 1/13, read and post on:

Hexennial VI

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)

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)

WEEK 3

Mon, 1/18, No Class

Happy Martin Luther King, Jr, Day!

Wed, 1/20, read and post on:

Hexennial VII

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

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

Memoirs of William Sampson (1807) (imprisonment, trial in Portugal, asylum in Paris)

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

Mon, 1/25, read and post on:

Hexennial VIII

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 Stragglng 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)

Wed, 1/27, read and post on:

Hexennial VIII

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

Mon, 2/1, read and post on:

Hexennial VIII

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)

Wed, 2/3, read and post on:

Hexennial VIII

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. Reverend Parkinson (New York 1811) (assault and battery, gender)

Samuel Woodworth's *Beasts at Law or Zoologian Jurisprudence; A Poem, Satirical, Allegorical, and Moral* (New York 1811) (jurisprudential satire, natural science)

WEEK 6

Mon, 2/8, read and post on:

Hexennial VIII

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 satire)

Wed, 2/10, read and post on:

Hexennial VIII

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*)

Trial of People v. Captain Whitby (New York 1812) (jurisprudential satire, impressment, individual responsibility for crimes under international law, War of 1812)

WEEK 7

Mon, 2/15, No Class

Happy Presidents' Day!

Wed, 2/17, read and post on:

Hexennial IX

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

WEEK 8

Mon, 2/22, read and post on:

Hexennial IX

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*)

Wed, 2/24, read and post on:

Hexennial X

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)

WEEK 9

Mon, 3/1, read and post on:

Hexennial XI

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)

Mon, 3/1, 12 noon PST, NOTE: Due Date for Posting Student Paper Drafts for Class Feedback!

Wed, 3/3, read and post on:

Hexennial XI

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

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

Theobald 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 *Ogden 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!)

WEEK 10

Mon, 3/8, read and post on:

Hexennial XI

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)

Hexennial XII

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

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

Trial of the Philadelphia Orange Day Rioters (Philadelphia 1831) (the Philadelphia Orange Day riots, hate speech, religious freedom, religious speech)

views of jurisprudence

Wed, 3/10, read and post on:

Hexennial XII

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)

End of Quarter

FINAL EXAM (or FINAL PAPER DUE LAST DAY OF EXAM PERIOD)

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