



Nordic Summer University



Uniwersytet
Wrocławski

International Relations and Human Rights

February 24-26 2017, Wrocław, Poland

Program for the Winter Session – Special Focus:

THE CITIZENS OF HUMANITY: MEMBERSHIP AND HUMAN RIGHTS OF DIASPORAS

IN COOPERATION WITH THE UNIVERSITY OF WROCLAW

Friday the 24th of February	
12.30	Welcome reception (with the other circles)
15.00-15.45	Lars Erslev Andersen, Senior Research Fellow, DIIS, Denmark: Global Jihad and World Order; US War on Terror and the idea of a Liberal World Order. Chair: Mogens Chrom Jacobsen
15.45-16.00	Pause
16.00-16.45	Oleg Bresky, Professor, EHU, Vilnius, Lithuania: The practices of semi-citizenship in Europe Chair: Mogens Chrom Jacobsen
16.45-17.00	Pause
17.00-17.45	Athanasia Petropoulou, Lawyer ECHR, Strasbourg, France: On the margins of the citizenship: refugee crisis and the transformation of identities in Europe. Chair: Mogens Chrom Jacobsen
	Hotel Check-In
20.00	Dinner (with the other circles)
Saturday the 25th of February	
09.00-9.45	Claudio Corradetti, Associate Professor, University of Rome “Tor Vergata”: The right to justification as a basic human right Chair: Oleg Bresky
9.45-10.30	Magdalena Tabernacka, Associate Professor, University of Wrocław: Polish context of Europe Convention on preventing and combating violence against women and domestic violence.
10.30-10.45	Pause
10.45-11.30	Patrick Hein, Associate Professor, Meiji University, Japan: Gathering public opinion support in undemocratic regimes. Chair: Oleg Bresky
11.30-12.15	Iryna Ivankiv, National Project Officer, OSCE Project Co-ordinator in Ukraine, Ph.D. Student at National University of “Kyiv-Mohyla Academy”: Right of Humanity to Peace as a Precondition to Human Rights Protection Chair: Olga Breskaya
12.15-13.30	Lunch (with the other circles)

13.30-14.30	Programme with the other circles
14.30-15.15	Aleksandra Szychalska, Ph.D. Student, University of Wroclaw, Poland: Raphael Lemkin's remarks on the problem of minorities and genocide. Chair: Olga Breskaya
15.15-16.00	Eyassu Gayim, Associate Professor, Global Studies, Gothenburg, Sweden: The human rights flowing from humanity. Chair: Olga Breskaya
16.00-16.15	Pause
16.15-17.00	Liudmila Ulyashyna, PhD, manager of the International Law in Advocacy Program Human Rights House Foundation, Oslo, Norway; lecturer of the European Humanities University: Does the cultural/legal relativism has a chance for reconciliation with the universalism in the course of human rights education of lawyers? Chair: Olga Breskaya
17.00-17.45	Barbara Gornik, University of Primorska, Slovenia: Nationalist Cosmopolitanism of Human Rights Law. Chair: Olga Breskaya
19.30	Festive Dinner
Sunday the 26th of February	
09.00-09.45	Agnieszka Kuriata, Ph.D. Student, University of Wroclaw, Poland: Casus <i>burkini</i> Chair:
09.45-10.30	Hellen Parra-Flórez, Doctoral Candidate, Teaching Assistant, Research Assistant, The University of Manchester: "Female Genital Mutilation in the UK: Should 'Culture' Provide a Defence?" Chair: Barbara Gornik
10.30-10.45	Pause
10.45-11.30	Katarzyna Sadowa, Ph.D. Student, University of Wroclaw, Poland: The issue of honour violence within the Muslim minorities in Europe. Chair: Barbara Gornik
11.30-12.15	Barbara Jelonek, Ph.D. Student, University of Wroclaw, Poland: Rights of sexual minorities in Japan. Chair: Barbara Gornik
12.15-14.00	Lunch (with the other circles)
	Goodbye

Abstracts

Lars Erslev Andersen, Senior Research Fellow, DIIS, Denmark: Global Jihad and World Order; US War on Terror and the idea of a Liberal World Order.

Global Jihad has never presented an *existential* threat to European national states, the US or the liberal world order. Neither the US after 11 September, nor France after the violent attacks in 2015, were fundamentally under threat as sovereign states. Global Jihad is asymmetric warfare that can cause extensive damage and misery, but in military terms, it is not aimed at defeating sovereign states. The *Mujahidin* (holy warriors) only succeeded in forcing the Soviet Union to retreat from Afghanistan in the 1980s because they received massive support from Pakistan, Saudi Arabia and the US. Global Jihad is therefore not in itself an existential threat: neither to national states, nor to world order. On the other hand, the reaction to global Jihad and to terrorism has dramatically shaken up the foundations of national as well as international liberal order.

Claudio Corradetti, Associate Professor, University of Rome “Tor Vergata”: The right to communication as a basic human right

Since Kant’s conceptualization of the “right to visit” as a basic cosmopolitan right many have wondered what significance it might retain for a contemporary understanding of a system of human rights.¹ In another occasion I have suggested that the idea of a “right to be heard” can best capture the ‘negative’ and ‘positive’ side of the concept, respectively, as a right not to be refused from hospitality and as a right to submit a claim as a foreign national. In this occasion I will construct upon this point and argue for a more comprehensive “right to communication” as a basic principle of a system of cosmopolitan law, not just of human rights law. I adopt a critical-genealogical methodology and show how the assumption of an original entitlement as political members of society is a requirement for arguing in favor of such right.

¹ See P. Niesen when he claims that “The subjective *cosmopolitan* right thus appears to constitute a third category of subjective right to communication”, in P. Niesen, “Colonialism and Hospitality”, *Politics and Ethics Review*, 3(1) 2007, 92.

Magdalena Tabernacka, Associate Professor at University of Wrocław, Poland: The Polish context of the Council of Europe Convention on preventing and combating violence against women and domestic violence.

The Council of Europe Convention on preventing and combating violence against women and domestic violence as a ratified international agreement has the force of a universally binding law in Poland. The Convention is a basic legal instrument that serves to strengthen the position of women, and children, who have been the victims of violence relative to its perpetrators as well as state agencies that are legally bound to take action. Violence against women in Poland and the future of the Convention are closely tied to the historically conditioned cultural model of women’s functioning in the Polish society. The Polish government have recently taken steps to renounce the Convention. This is a politically motivated action that does not seem to be socially justified. A state that is loyal to its citizens should systematically combat any acts of violence that occur within the society, because such acts are dysfunctional to this society.

Patrick Hein, Associate Professor, Meiji University, Japan: Gathering public opinion support in undemocratic regimes

Most non-democratic regimes are either one party, military or one-man rule regimes. It is no coincidence that in states that disregard human rights public support for leaders is very high: in North Korea people on the streets applauded the successful testing of a massive nuclear war head; in Syria supporters of the Assad regime continue their staunch support for their undisputed leader even though he has been accused of mass torture and chemical weapons use. In Russia Putin has reached the highest support levels ever according to opinion polls. His public approval rating reached its all-time maximum – almost 90 percent (<http://wciom.ru/index.php?id=236&uid=115438>) despite the war against the Ukraine, the crimea annexation and the Syria bombings. At the same time he has continued a crackdown on civil society and intensified his tight grip on the media. Public opinion can be a central place for legitimizing undemocratic rule and state crimes. More than 50 per cent of Serbs believe for example that war crime defendants Mladic and Karadzic were national heroes. Every authoritarian regime needs to receive consent from the ruled and rely on public support if it wants to remain permanently in power. No regime can uphold itself through violence alone in

the long term (as the collapse of the violent Khmer Rouge regime example shows). It is puzzling that regimes such as the Kim clan in North Korea (the Kim clan has been in power since 1948) or the Assad family clan (the son has been president since 2000; father was president from 1971 to 2000) have maintained power for such a long time. How do undemocratic countries generate public support? In other words why do ordinary citizens in undemocratic regimes follow the rules? What are the sources for rule and authority in undemocratic regimes? Do they rely on crude violence and terror, or on punishment/ threat to punish; or on manipulation, propaganda and lies or on other means such as distributing economic gains privileges and/or nepotism? Or do they rely on other tricks? It has been asserted that people basically obey the law (or party decisions) if they believe it's legitimate, not because they fear punishment. Even though public opinion is hard to capture empirically I want to explore the relationship between public perceptions and expectations on the one hand and the nature of the problems being confronted and the claims of undemocratic rulers on the other hand. To this effect I examine public opinion perceptions in North Korea, Syria and Russia from various angles:

- By looking at social control through the school education system
- By looking at social control in movies, art works and posters
- By looking at the role of religion
- By looking at the role of the internet/information
- By looking at the role of local NGOs

Iryna Ivankiv, National Project Officer, OSCE Project Co-ordinator in Ukraine, Ph.D. Student at National University of "Kyiv-Mohyla Academy": Right of Humanity to Peace as a Precondition to Human Rights Protection

In the international law the concept of peace is mostly discussed within the humanitarian law, which restricts it to absence of war. However, in international soft law documents peace is often mentioned as a precondition to human survival, development, and the main goal of the United Nations' existence. The understanding of peace as a right of humanity allows constructing a new doctrinal concept, which views humanity as a subject of this right. The protection of right of humanity to peace will require different perspective and unconventional approach. Although the analysis of case law of international courts allows making a conclusion that indirectly courts are already touching upon this issue. Therefore recognition of the right of humanity to peace will prevent the possible argument of violating international peace in name of human rights protection.

Agnieszka Kuriata, Ph.D. Student, University of Wroclaw, Poland: Casus *burkini*

Burkini - bathsuit created by woman for other woman who need to cover their bodies for religious reasons and who want to take part in normal life in western societies. After the ban of hijabs in public schools (2004) and ban of covering face in public places (2011), France is going toward total absence of religion in public space, this time trying to forbid wearing burikinis by muslim woman living in France. In this work Author will discuss if the project of this law is not a violation of human rights including freedom of religion (article 9 European Convention on Human Rights and Fundamental Freedoms) or if it is just political move useful in today's migration crisis, especially in light of coming presidential elections?

Aleksandra Szychalska, Ph.D. Student, University of Wroclaw, Poland: Raphael Lemkin's remarks on the problem of minorities and genocide.

Though Raphael Lemkin is undoubtedly one of the most distinguished Polish jurists (he is the author of the ground-breaking concept of the crime of 'genocide' and the architect of *The Convention on the Prevention and Punishment of the Crime of Genocide* adopted by the UN), in modern Polish historiography he is barely remembered. A lion share of his works, chiefly on international criminal law, has never been translated into Polish, nor has a Polish biography ever been written about him. Polish students have no idea who he was, as he is rarely mentioned in textbooks. In vain, one can try to find him among the most deserving Jews in the Museum of History of Polish Jews Polin in Warsaw. The events in Rwanda, Yugoslavia, Darfur, Burma, Nigeria, Central African Republic, and especially recent events in Syria and Iraq (genocidal policy conducted by so called 'Islamic State', involving physical extermination of Yazidis, persecution of Christians, Turk-mens, Copts or Kurds) are shameful exemplifications of the fact that Raphael Lemkin's work on genocide remains valid also today. This is the reason why it cannot be forsaken, but to the opposite, should be continued

and further developed. And as Dirk Moses justifiably noticed- *'his ideas, rather than solely his career, need to be studied carefully'*. In my speech I will present Raphael Lemkin's remarks on the problem of minorities and genocide. In his studies on the nature of the crime, Lemkin noteworthy and thoroughly analyzed the issue of victimhood and perpetration. For him minorities- religious, national or ethnic- played crucial role in genocidal machinery. They could become victims (f. e. the case of Armenian genocide), but also perpetrators of the crime (like in the case of Herero and Namaqua genocide under German colonial rule). Lemkin described the mechanisms and factors leading to the crime, underlying the importance of cultural differences. In his research jurist derived from many different disciplines: anthropology, sociology, history and legal studies, what makes his research even more valuable. His ideas and conclusions have universal dimension and are valid also nowadays, especially in the view of the global changes we're facing currently, also in Europe (migration crisis, cultural conflicts or the rise of nationalistic sentiments).

Athanasia Petropoulou, Lawyer ECHR, Strasbourg, France: On the margins of the citizenship: refugee crisis and the transformation of identities in Europe.

Transformations of the notion of citizenship in today's globalized context brings us more closely to what Yasemin Soysal calls a postnational citizenship characterized primarily by the erosion of the national identity as the distinctive form of belonging and the generalization of rights initially attributed only to members of the polity to non-nationals. While this vision has proven to be rather relevant in analyzing changes in contemporary membership formations, it fails to capture to a certain degree the shortcomings of the universal human rights regime and the inherent tensions of the existing dichotomies between the status of aliens and nationals-citizens. One reason for this is that on the normative level the existing human rights formulations are intimately linked to the principle of territorial sovereignty, while mainly referring to the action of the State. The current so called "refugee crisis" in Europe demonstrates the predicaments of populations seeking to escape from war and deprivation. Drawing on the notion of the "right to have rights" the study aims to explore how the European responses in this context, based on strong inclusion-exclusion mechanisms, eroding the human rights of refugees and asylum seekers, can be relevant for analyzing and capturing current transformations of the notion of the European citizenship and its future.

Liudmila Ulyashyna, PhD, manager of the International Law in Advocacy Program Human Rights House Foundation, Oslo, Norway; lecturer of the European Humanities University: Does the cultural/legal relativism has a chance for reconciliation with the universalism in the course of human rights education of lawyers?

Case study: "Electronic Human Rights Education for Lawyers in Azerbaijan, Georgia, Belarus, Moldova, Ukraine and Russia" The United Nations Declaration on Human Rights Education and Training¹ (2011) serves as a core instrument in acknowledging the fundamental importance of human rights education in contributing to achieve common understanding and awareness with a view to strengthening universal commitments to human rights. However, the ongoing discussions on universalism and cultural/legal relativism² or in other words the concept of international human rights standards vs the value of local traditions are often regarded as being opposed. The discussions are increasingly entering the discourse on international law and human rights³. The paper will introduce a case study of the Human Rights House Network Program "International Law in Advocacy" (ILIA). The Program provides human rights education, capacity building, and an advocacy platform for lawyers and human rights defenders. Since 2009, the Program runs the project "Electronic Human Rights Education for Lawyers" as an internet-based distance learning platform eligible for lawyers from several countries (Azerbaijan, Georgia – in 2009-2011, Belarus, Moldova, Ukraine and Russia). The case study will contribute to the debate on universalism vs traditional values and aims to answer the question if the two domains - international human rights standards and local culture/domestic law - might be reconciled via education and work of human rights advocates.

1. 66/137. United Nations Declaration on Human Rights Education and Training 2. See: "Preliminary study on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind" Prepared by Professor Vladimir Kartashkin, Rapporteur of the drafting group of the Advisory Committee, <http://www.ohchr.org/EN/HRBodies/HRC/WGCommunications/Pages/ThirteenthSessionWorkingGrouponCommunications.aspx>; "PROMOTING HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS THROUGH A BETTER UNDERSTANDING OF TRADITIONAL VALUES OF HUMANKIND:

BEST PRACTICES”, Report of Lawyers for Communities and the Environment, South Africa; ”Russia’s traditional values initiative result in abuse at domestic level”, http://www.nhc.no/no/nyheter/Russia%E2%80%99s+traditional+values+initiative+result+in+abuse+at+domestic+level.b7C_wlnKY2.ips 3. Tom Zwart, ”Using Local Culture to Further the Implementation of International Human Rights: The Receptor Approach”, *Human Rights Quarterly* 34 (2012) 546–569

Katarzyna Sadowa, Ph.D. Student, University of Wrocław, Poland: The issue of honour violence within the Muslim minorities in Europe.

Despite that the issue of honour violence has a long history it became a subject of international researches and attention only few years ago. The main trigger for that were actions taken by some human rights’ activists and a sudden appearance of the phenomenon in European countries. Until then honour violence was characteristic mostly for middle eastern cultural circles. During the research of honour violence problem in Europe, it was observed that this phenomenon occurs mostly within the minorities – especially Muslim. In her presentation the author will shortly characterize the problem of honour violence and its’ presence in Europe. She will also present different forms of issue starting from psychical and physical abuses ending in so called honour killings. She will focus on the problem in reference to Muslim minorities living in chosen European countries. The main aim of the presentation will be to explain the diversification of the basic norms in relation to cultural factor and to show dangers of implementing foreign culture norms in Europe. Author will also try to explain why the phenomenon of honour violence occurs in Europe mainly within the Muslim communities.

Barbara Jelonek, Ph.D. Student, University of Wrocław, Poland: Rights of sexual minorities in Japan.

Human rights are nowadays routinely violated. In my presentation, I would like to introduce the issue of Japanese marriage institution. I would like to raise the issue of sexual minority in Japan (marriage). On the subject of the institution of marriage was written countless hearings. Marriage is the oldest social institution, which for many years was the foundation of academic discussions and unscientific. Japanese institution of marriage has evolved over the years. Matrimonial law in Japan today is governed by legal acts for example Japanese constitution, Minpō, Koseki, Horei and the specific provisions. This presentation aims to present and explain the legal basis for the conclusion and termination of marriage in Japan, acts directly connecting to the institution of marriage and discuss the issue of same-sex marriages in Japan. Change of Art. 24 of the Japanese Constitution is suggested by many lawyers and social activists. Unfortunately, at the peak of the Japanese government Prime Minister Shinzo Abe does not seem to preoccupy the mind, because for his policy the most important is nine provision of the Constitution of Japan. On the other hand, I would like to raise the issue of the rights of women to work and their rights at work, which are routinely violated. I would like to compare their situation with global trends, present statistical data like GAP Report, and describe these practices on the background of violations of the rights of women.

Barbara Gornik, University of Primorska, Slovenia: Nationalistic Cosmopolitanism of Human Rights Law.

International law of human rights constitutes each individual as a bearer of human rights. Human rights are represented as apolitical, especially due to their articulation as natural rights which one has because one is human by nature. In this manner they appear as neutral, eternal and self-evident so they do not need additional explanations. Their declarative universality constructs a promise of their ability to dissolve the boundaries between the peoples of the world and a wish to create a cosmopolitan world order. The paper builds on the critical analysis of contemporary human rights law and tries to expose some of its aspects which contribute to reproduction of nationalist ideology and the system of nation-states. I argue that the human rights do not have the potential they claim to have as the national context is the only possible context for their realization. Even more, the paper offers a view, that the human rights have been “hijacked” by the discourse of nationalism produced by nations and nation-states, meaning that the latter maintain the universality of human rights while at the same time strongly adjusting their interpretations and implementations.