

Podcast Series 3 - Reimagining politics through human rights

Episode 1 - Reimagining politics through human rights

Graham Finlay and George Ulrich

Hi, this is To the Righthouse, a new podcast series by the Global Campus of Human Rights. From scepticism to hope, from utopia to empathy, we discuss human rights, riding waves, but also signalling where the light is. This podcast was recorded in Venice, Italy, on the island of Lido at the Global Campus headquarters.

Graham Finlay (GF): Welcome, and thank you for joining 'To the Righthouse', the podcast programme of Global Campus of Human Rights. This is the first episode of the new series called 'Reimagining Politics through Human Rights'. I'm Graham Finlay and I'm here today with my co-host George Ulrich. Together we will take you through eight episodes ranging from reimagining leadership to reimagining values, from reimagining structures to reimagining participation. Welcome George, it is great to embark on this journey with you and our guests.

George Ulrich (GU): Thank you Graham, thank you very much. I am excited to be part of this initiative.

GF: So George, what do you see in the current political landscape that challenges us to reimagine the politics of human rights?

GU: No, thank you. I think this is a very challenging and a very interesting question that has been selected for the podcast series. And I can tell you I'm genuinely excited to hear what all our various interviewees will contribute to this reflection. For me, as a point of departure, it's a very challenging question. And it's a challenging question because it implicitly asks us to reflect on the current political moment, or the current moment in history with regard to politics, and this is a difficult, difficult time. We're witnessing divisiveness in politics, we're witnessing polarisation. We're witnessing illiberal trends, both on the right and also on the left. We're witnessing the rise of authoritarianism in consolidated democracies, in emerging democracies. And all of this has a profound impact on human rights, for better and for worse, let's say, it both threatens human rights agenda, and at the same time probably positions human rights as extremely important and valuable political resource; but it's something we need to get clarity on, something we need vision, we need to get these these connections better into focus. So I feel it's a very very interesting and challenging topic.

GF: I agree that it's an exciting time which both challenges human rights and yet human rights are challenging existing institutions and, I agree with you, I think there's an, in a way... in our societies and especially maybe in societies many people will be more familiar with, as you say, consolidated democracies, there are challenges surrounding human rights. But in other forms of political organisation, other countries, countries in the Global South or in the developing world, you increasingly find new directions of politics which increasingly, if they ever did, don't model themselves on the consolidated democracies. And some of these are inimical to human rights, and some of them have new adoptions of human rights. And we'll be talking to people from some of those societies and with real engagement with those societies about how the landscape really has changed.

GU: Yeah, I agree. And I think this is also part of the contemporary geopolitical reality that a human rights based approach to economic development, even to security politics and other issues along the same line, is being profoundly challenged and profoundly questioned, but let's look at the linkages between human rights and democracy, human rights and politics.

GF: And democracy and politics. And I mean, maybe for our listeners, it would be good to start with the very basic question which might not have occurred to people, especially if they, you know, spend a lot of time and have a great loyalty to the international system of human rights. Are human rights political? You know, is politics based on human rights, should it be?

GU: So my way of thinking about this, as a point of departure, is that the human rights as a common aspiration of the international community, as defined in the Universal Declaration of Human Rights and in the subsequent international human rights treaties, and regional treaties and so on, are envisioned as somehow above politics, as a set of value affirmations or commitments that are or should be affirmed by everyone across the political spectrum from left to right. And in a certain sense they frame politics, because within the boundaries that are established by fundamental international human rights standards, there can be a broad range of different political agendas, a broad range of different political solutions to contemporary problems and challenges; but you respect, while addressing the issues that need to be addressed within the political sphere, you respect the fundamental human rights standards, as have been defined in the international treaties. That's a starting point, I think, that's beautifully reflected in the various treaties of the European Union that invoke human rights and other core values such as rule of law, gender equality and so on as not up for discussion, as a common normative baggage that we all carry with us, that we all affirm, and that in fact enables us to be politically active and to find solutions to the challenges of the day. That's the starting point. But that premise is being challenged from many different sides, I said, both from the right and from the left to some degree, and you start to see, you start to hear political voices question whether certain human rights premises aren't just biased or illegitimate or politics in disguise, so to say, and I feel that is worrisome.

GF: No, I think that it comes down to one of the fundamental problems of democratic politics or constitutionalism, of which human rights do and civil rights play a role, obviously, which is how do the people, if they're in charge, or any sovereign or any power, or any powerful dominant group, bind itself so that it can't do certain kinds of things, you know? And I guess this is one of the ways in which the political always creeps in. If we see both within and without the European Union what is variously called the rule of law crisis, or democratic backsliding, or increasing authoritarianism, we see that people need to really rise up if their rights are being eroded, ideally peacefully, you know, so that those rights are not taken away from them. And in the process of that rising up they very often experience violations of their human rights in the course of defending their human rights.

GU: Yeah. I think, maybe thinking along the same line, Graham, I think this, you know, I think implicitly, what I was saying before, there is a kind of idea or vision that in a certain sense, maybe only in a certain sense, human rights are politically neutral. They are above politics, they frame politics, they are agreed by all actors across political spectrum, but at the same time, and I think this is what you were also saying, is that at a time when various rights are questioned, a time when rights are challenged - that could be minority rights, that could be rights having to do with pluralism, with religious freedom; it could also be rights, economic and social rights, for example, that by some are seen somehow as socialism in disguise, that there is a sort of redistribution agenda implicit in these rights, and that is being seen as biased or illegitimate and

so on, you know. When certain rights are being questioned from a political point of view, you could say that the affirmation of those rights which sort of reaffirm those rights becomes also a political agenda, you know, so you somehow re-politicise the human rights agenda, and you say: 'well, in order for some of the fundamental premises of safeguarding human dignity, elements of human equality and so on that are implicit in the Human Rights normative framework, in order for that to become real, we need some form of redistribution, we need some form of redistribution of economic entitlement, redistribution of power and so on; and that means we have to mobilise ourselves politically, you know, to deliver on the promise that's contained in the Universal Declaration of Human Rights. And I see that as something probably both unavoidable and encouraging, in a certain sense, you know, and this, I think this speaks to what you were saying that you see, you see people out there using the reference to human rights as a source of political mobilisation. And I think there's a point there.

GF: No, and I agree that, you know, focus on economic and social rights is increasingly seen even in liberal democracies. But I'm wondering if some of the crises of liberalism are coming to haunt the human rights project as a whole. I mean, it's possible to just see the liberal project and maybe specifically a rights based project as a set of ground rules, as you said, which prevent anybody from violating other people's rights and everyone getting to do their own thing. And that could either be a minimalist - we don't have a strong political moral view behind this - or it could be something which Ronald Dworkin always said, which is: 'no, there's a positive vision of the human being and what it really means to concretely respect every individual as an individual with equal respect', which is more than just a sort of social contract or an agreement to disagree, and things like that. But when we see sort of tremendous inequality, you know, that vision can really seem under threat, because people will say, again, from the left and maybe in some of its populist forms from the right, that, you know, that's a morality which in reality embolden the elites and also maybe, you know, a certain vision of human beings, which thrives in this kind of individualist system. And in the long run in the real world, leads to many many people not receiving equal respect for either their views or their persons, you know.

GU: So if I were to rephrase what I just heard you're saying, Graham, I think you're sort of rearticulating what could be seen as a classical Marxist or Neo-Marxist critique of the human rights agenda, initially, of the agenda of the Rights of Man and of the Citizen proclaimed in the French Revolution in the late 18th century, but reiterated over the course of the intervening decades and centuries, that the invocation of a vision of some form of human equality and universal human dignity is a beautiful vision, but it's a false promise as long as you have power structures and in particular economic structures that not only maintain but widen inequality, keep people in structural dependency and structural impoverishment and neglect, need. In such a situation the talk about a vision of universal human rights is at best a kind of distraction from the urgently required political action and in some ways, implicit legitimiser of the unequal relations. And you have contemporary critics who will say: 'how is it that since the end of the Cold War we have seen the radical proliferation of human rights rhetoric, of human rights mechanisms, of human rights policies, and this is exactly the same time that we've seen deepening inequalities in society and the strengthening of a neoliberal economic global system, based on the Washington Consensus; and how do the two coexist? Well, they coexist because the human rights framework is ineffective in challenging the underlying dynamics'. That's the sort of thing you're saying, I think, at least as a point of criticism to be reflected on and, you know, the answer could be that the human rights agenda is profoundly important and legitimate, but it has to be linked with an agenda of profound change of the economic relations and so on. And that in turn is inherently political, you know, and I think there are people within the human rights framework who have been very much pursuing this way of thinking from within the human rights movement. So I think the

people who have been working on really giving meaning to the notion of a right to development, for example, the declaration from 1986, which has never been translated into binding international law - the attempts to do this, to push for this at various junctures, including quite recently, are really attempts to link the human rights agenda with some mechanisms of global redistribution. You have others, eminent human rights experts, De Schutter among others, but a number of eminent human rights experts who have talked very much about how we should think of taxation as a political agenda that is a precondition for realising human rights standards, and the way in which transnational corporations can evade taxation by moving around globally and so on, simply renders states unable to govern and to deliver on their fundamental human rights obligations as contained in the treaties, you know. So the way in which there is a need for some form of radical political action as a precondition for, in fact, taking international human rights standards, agreed international human rights standards seriously is, I think, it's a very important collection to be aware of and to think of, as we engage in human rights education and human rights advocacy.

GF: I think you've hit on a couple of really key pieces there, I mean, some of the stark elements of our understanding of human rights, which are certainly there in the common understanding of these binding international treaties; the idea that human rights involve duties: to respect other people's human rights, to protect other people in their enjoyment of the human rights and to, if all those fail, fulfil people's human rights, can seem like a way of making everything including taxation policy, all forms of regulation, potential vehicles for promoting human rights and protecting human rights wherever, and it's not just courts, and it's not just police and so forth. At the same time, you know, a lot of these dynamics seem to fall short of what might be seen as radical economic change. And so when you look at business and human rights, the duties aren't 'respect, protect and fulfil', they're 'respect, protect, and remedy', which falls a bit short of that the idea that businesses don't have a responsibility to directly fulfil human rights that might have implications for taxation as well. And then you mentioned the right to development. So I've long been interested in, just as a sort of site of contestation because you're right, it has not been made a binding sort of instrument, and in fact, it's kind of been sidelined in the mainstream development discourse. As a lot of people, some people have said: 'the reason the right to development is such a creative space it's because it's not the main way of thinking about development, at least in the big international organisations and NGOs'. And that's perhaps because the right to development in its official version is about the individual as the chief beneficiary of the right to development, the chief agent of the right development. It's all about individuals and their development, economic, social, and cultural development. But it was also seized upon by I think a number of countries in the Global South as a chance for them to change the international order - that's what emerged from - and to shape a new way in which countries participate in that order, and realise their own development. Now, a lot of people thought that the latter, the self-determination of formerly colonised peoples was a threat to the former, the individual rights of their citizens and residents on in their territory; but I think when we take these rights seriously, we see how these struggles become part of the individual understanding of a particular right.

GU: Yeah, I have a comment, by the way, to what you said about human rights and business, and I think in some ways, it links with the right to development. What I see as the common thread in my, I'm not sure disagreement but at least slightly different perspective on the issue, is that I think so much has to do with the role of the state. And, you know, the reason that 'respect, protect, fulfil' translates into 'protect respect remedy' is that it's simply different focuses. The one is, the first framework is a framework of state obligations, and they're much more, in the human rights framework are much more expansive, and comprehensive: so states have obligations to respect, they should not violate human rights standards, they have an obligation to take action against third parties violating - that's what we call protect - and they have

an obligation to act proactively to enhance the enjoyment of human rights across the board, you know. That's a very comprehensive set of responsibilities, whereas business enterprises are seen, first and foremost, to have a negative obligation to not infringe on or violate rights of others. But businesses don't have a role in society where they are, you know, fundamentally responsible for taking positive action; this is something they may choose to do as part of their corporate social responsibility agendas, as their public profile and so on, but it's not an obligation the same way as for states. And I think there's something very important here: that the human rights framework is a state-centric framework, and it's a framework that presumes strong states; that is in fact... it's a framework that is intended to empower states, but empower states to act responsibly within bounds, not to act arbitrarily, not to act irresponsibly, not to act in an oppressive or dominating manner or even in an illegitimately self-interested manner. You know, it's a strong state that's at the same time responsible, it's about sovereignty as responsibility, as has also been said by eminent human rights scholars and philosophers. And I think it's exactly the same in the notion of the right to development that we've been talking about. The idea is it's not just a framework that sees development as, you know, human development and that expands the agency and the capacity of individuals living in a given jurisdiction. That is certainly that. But it's in fact also, to some degree, a claim of government representatives in the Global South or in disadvantaged countries in the global economy against the more privileged and the more powerful and the more advantaged. So, there is also an element of global redistribution, both of assets, of access and of technology and of other core issues like this. There is this kind of element, it is a claim that's held by states but against other states or against the international community, and it means also a certain reorganisation, for example, of capital flows and trade relationships and the intellectual property governance and so on. All of that factors in but the state that is both a duty bearer and a rights holder in this complex scenario, has to be profoundly both strong and responsible, right? That is the idea that the human rights framework needs strong states, but it needs states that act in a predictable way according to rule of law within well defined boundaries, which is exactly what we were talking about before, you know, and at one level, I feel this political agenda is simply to mobilise support for that form of governance. And I think you're totally right that in the geopolitical realm, as we were saying, there are very strong advocates for non human rights-based approaches to development, for development as the forging of strong authoritarian governments that are mostly concerned about infrastructure, resource extraction and, to some degree, entering into a trade off between a little bit of an increase in living standards against the decrease in freedoms, right? And that's the sort of, that's the non human rights-based development model, and that has traction in many parts of the world, in all parts of the world, maybe.

GF: No, we've seen with Chinese soft power and increasingly hard power, you know, an example of just how appealing that model can be. I mean, China has, over the last few decades, raised or hauled more people out of extreme poverty than any other developmental project in history - we're talking about hundreds of millions of people - but it has not done so in a democratic or human rights respecting way. And I think it's a profound challenge to our theories of human rights, our human rights regime and our development model as well. I think, behind this - and you wonder how much it can be accommodated - is: there is this right in the international system and in the treaties to an international order in which all of these human rights are realised, you know, and cashing that out has proven, I think, difficult in practice. But, maybe in a way, speaking of China and maybe not, some of the most interesting developments, as you say, are maybe on the left, about this, who might have before just rejected human rights, as you say, as part of the problem, and certainly people who not only want to get away with, get rid of capitalism and capitalist companies in the regimes of capital which circulate around these large often international firms, they also want to get rid of the state, because they see that is intricately intertwined and unremovable from that capitalist way of organising our society. But they very often notice that a lot of the movements they do see as progressive, as

the kind of social movement that people need to accomplish this anticapitalist goal, is adopting the language of human rights. And so many of those Marxist thinkers have had to reconcile themselves to human rights. Similarly, even maybe in domestic areas, even in, as you say, consolidated democracies, human rights movements like minority rights movements and maybe disabled people's rights movements, very often adopt a language of human rights which is not silent about economic inequalities, is not silent about cultural and group rights. And I think liberals have had to accommodate themselves to these transformative movements, whether they're in international context, whether they're in particular country contexts, or whether they're in our own, maybe if we live in a liberal society, our own domestic politics, where disabled people are seeing with warrant I have to say from the Convention of the Rights of Persons with Disabilities, that we need to transform our society so it stops disabling us.

GU: Yeah, I think what this triggers in my mind listening to what you're saying - and I tend to agree with you, Graham, I think it's an interesting observation. It reminds me I have discussions that I was involved in a long, long time ago that were more related in fact to issues having to do with cultural relativism and so on, you know, issues of does human rights framework fundamentally reflect a Western values set or is it more a universal value set and how do you parse those kinds of issues. And one thing that I felt in fact in many of the more fruitful discussions I had on this topic, was a shift of focus from the underlying ideas of value commitment and so on - you know, do certain local practices as values actually align or not align with, in an abstract sense, with the international human rights norms - and to shift the focus towards what could be called a 'test of pertinence' or something like that. It's also been captured in a research agenda that associates itself with the local relevance of human rights, localising human rights, you know, which is really to say: you start at the local level, you start with the issues that are pressing, social justice issues, immediate needs at a local level, whether there are economic social needs or needs of marginalised and disadvantaged groups, traditionally discriminated groups, disempowered groups and so on; and you say: 'what can be done to rectify these wrongs?' Right? To right these wrongs and to rebalance imbalances and so on. And if the human rights framework is experienced and seen to be a pertinent toolset, you know, a toolset that can help to effect change, that's more important, in fact, to people in many, and that's really starting not with the big picture, so to say, but more with the immediate here and now and with what can galvanise concrete action in the in the immediate setting. And I think that has been one of the successes of the international human rights movement, also seeing new generations, seeing young people embrace elements of the human rights agenda, justice, we see young people very strongly embrace elements of the climate justice agenda, you know, and even to see linkages between the two. And to see this as something that addresses or that speaks to their concerns here and now, and they see simply a toolset. Here are a set of norms that have been affirmed, and that can be leveraged, you know, against power structures in a constructive way. And I think that is certainly part of reimagining politics through human rights as we see it, simply as somehow agency from below, you know, and I think that's a very important part of this bigger picture.

GF: Well, without giving everything away, I can promise the listeners that we will have, this will be a recurring theme in our future podcasts, about how human rights can robustly protect the specific cultural formations that we find in communities, local communities, but also protect the individual rights of people in those communities, and allow people to navigate those difficult spaces using the language and tools of human rights. But we'll also see how international universal human rights norms can be translated into quite a radical change in terms of local governance, by going around the nation state and serving individual local communities perhaps better than they would be served by the filtering of them through the state. Well, we're almost out of time.

GU: Graham, let me... maybe I'll just briefly interrupt you because I felt there was one more point I would like to make before I hear you wrapping up our discussion, if I may. Because I think, you know, I started out by expressing some, let's say, concerns about trends in the current political moment. And now we've talked about a kind of positive vision and I'm very happy to voice them, to share that, but I would also like to go back to a point of concern - and I think it speaks to what you just said - which is that I think that on all sides, you know, but also on the left we have to be wary of the possibility that a movement that is committed to certain profoundly important objectives, even objectives framed as human rights doesn't, in the same context, exempt itself from broader or wider human rights compliance, you know, so respect... So somehow to say, we have a legitimate just cause, so is almost anything goes, right? And there's this sort of thing: we feel paradoxically kind of exempt from complying with the same wider normative framework that we're leveraging and invoking, right? And I feel they're quite some tendencies and trends in that direction, in relation to many issues, you know, in the movements against oppression in different parts of the world, but also in various aspects of identity politics and claims for adjust claims for inclusion, and celebration and respect for traditionally marginalised communities and so on that somehow, they lose sight. And so some of these movements... we lose sight of the need at the same time to be humble, and to be respectful of diverging opinions and interests of others, and the complexity, the genuine complexity of the issues at stake, you know. And I feel that, maybe I'm old, maybe I'm conservative at heart, I don't quite know in that regard, but I feel that there is a word of caution required. I could have made exactly the same word of caution towards and about certain voices on the political right; for example, the claim, freedom of expression as an almost absolute standard that can be used without regard for its implications and impact on a broader framework of rights protections and so on, you know, and even in certain ways you assert and invoke rights as an instrument of undermining rights compliance and so on. And I just feel, as we embark on this journey, you know, I think we need to be really cautious. And we need to be profoundly aware of some of these tendencies and dynamics in the current political moment as well, you know, so both to celebrate the mobilisation, the renewed energy that sometimes being put into to human rights related campaigns, but to also be cautious about how this is done and what the flip side could be, you know.

GF: Well, George, I think you already answered our final question, but I'll give you another chance at a short answer, which is how can human rights shape a renewed or reimagined politics?

GU: I do think we have... I think, I don't think there's one simple answer to this question, Graham. And I think we have brought different angles at which to approach this, and I will simply just now open up towards the coming interviews. We have a line-up of eminently, you know, knowledgeable, accomplished, and interesting interviewees. And I'll be very very interested in hearing how they come at this question, because I think there is a lot of experiences, a lot of experience both at a higher political level, at a grassroots political level, from the point of view of European politics, from the point of view of movements and mobilizations in the Global South, and so on and so forth. And I think this will be very interesting to hear. And I don't think there's one simple or short answer to the question, let's put it like that.

GF: Well, for my part, I don't want to give up on the actual mechanisms of human rights just yet. You and I are both philosophers George, if you don't mind me saying so. But I think we can learn a lot from the development of international human rights law as a way of guiding us in these difficulties. You know, the idea that some human rights just cannot be restricted, even for really great social goods, like the right not to be tortured, is an important break on the kind of worrisome tendencies you described just now. And I think the whole flexibility which has been brought into human rights law, by really attempting to navigate it in

some kind of precise way, is actually a great resource for our politics in the future. Well, thank you so much, George and again, thank you to all our listeners for tuning in. We really hope you'll want to discover more as we move through each episode.

GU: Yes, thank you for my slide also, and we'll be very happy to share interviews and reflections every Monday in the coming weeks. So thank you and stay tuned.