

Podcast Series 3 – Reimagining politics through human rights

Episode 4 - Reimagining spaces: rights-based politics

Morten Kjærum

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.

George Ulrich (GU): Hello I am George Ulrich, Academic Director of the Global Campus of Human Rights. I'm speaking to you from the FRA forum in Vienna where we are recording the podcast "To the Righthouse" produced by the Global Campus. This third series of our podcast focuses on 'Reimagining politics through human rights'. In this episode, I'm delighted to be joined by Morten Kjærum, human rights lawyer and former director of the Danish Institute of Human Rights, the Fundamental Rights Agency and the Raoul Wallenberg Institute. One could not hope for a better guest to talk about current developments in the field of politics and human rights.

The master's programmes that we organise in the Global Campus of Human Rights have a dual focus: they're concerned with the promotion and protection of human rights, but they're also concerned with safeguarding and defending democracy. We see these two agendas as deeply connected and intrinsically linked. In recent years, we've been witnessing alarming setbacks in the political realm: we see illiberal politics moving into the mainstream, we see a rise of authoritarianism, we see fundamental setbacks to democracy and rule of law, including the independence of the judiciary. This is very often linked with direct attacks on the human rights normative framework. We see this coming primarily from the political right, but also at times from the left. Morten, I would like to hear your thoughts on this development. Are we as human rights advocates and defenders entirely in the defensive? Or can we seize this as a moment of opportunity of seeing human rights as a means of re-galvanizing, re-imagining political commitments?

Morten Kjærum (MK): Thank you very much George Ulrich, it's a pleasure taking part in this and great to see you again. And yes, we are at a crucial moment when it comes to human rights and democracy but, as very often, it's a mixed picture, it's definitely not only pointing in one direction. I think we see two trends at the moment: we see sort of, as you had described it, authoritarianism, illiberal trends, populist trends in very many countries but at the same time - and hope we can discuss that later - we see also a very powerful bottom-up reaction to exactly those reactions. So, we see sort of a top-down and a bottom-up pressure, and where this will end is, of course, very difficult to say.

One positive element that I cannot resist, and that is, of course, that when we look at 2024 there are more than 4 billion people going to the voting stations, cast a vote on their favourite

candidate. And of course we know in a number of countries this is not a reality, it's all made up beforehand. But still, 4 billion people just this year. If we go back 30-40 years, I don't think we will be able to find any time that so many people actually had the possibility, or at least, there is a claim that there is some sort of democratic governance in our state where we live. So that is a positive something to build on; at the same time, we need to be very conscious about the pressures against democracy, against human rights.

GU: Interesting. Morten, how do you see the role and the impact of social media? You were talking about how there are movements from below, and they're very often driven by the younger generation - I think it's fair to say maybe not always but often - and they use technologies, modes of communication and so on that are also in many ways new and sometimes challenging for older ones like myself. How do you see the impact of social media on these trends and developments?

MK: I think some of the elements that we...which are to say old phenomena - fake news and hate speech and things like that - have of course been amplified dramatically with social media and new technology in general. But I would like to go back one step and say: okay, when we got the - and you recall, I'm sure - the internet in the 1990s, it really started flourishing, we all sort of had that 'wow, this is really good for democracy, we can have a democratised access to information, you can no longer hide behind borders, you have a cross-border communication as we had never seen before, so, this is really a big step forward for democracy and human rights'. Now we have sort of entering into let's say almost the opposite discourse, taking the opposite perspective, namely that social media, open discussion is a threat to democracy, is a threat to human rights. So what I hope for, now, is that we maybe can go back and retrieve the old perspective, of sort of how is this useful forum for democracy and human rights, and then of course, bring in all the lessons learned throughout the years, and this is where I see, among youngsters and then across ages as well, that there is a very constructive use of the social media. And when we start legislating, and try to limit the hate speech and the negative sides of it, we really have to be careful that we are not also throwing out freedom of expression to have the big agenda. And that we know that some of this legislation that is being introduced in various places, can, let's say, is very often used against very legitimate statements, legitimate positions. So it's an extremely complex...

GU: It's a complex field. And in addition to what you've elaborated, there is the question of the sort of selective information streams, that the social media seem to facilitate, these information bubbles or echo chambers - as we sometimes call them - where different groups are being targeted and receive exactly the kind of information that will reinforce their particular views, or a particular set of views, and not the problem that we as a democratic community are less and less sharing the same set of reality and facts that we are responding to.

MK: And this is where we cannot... we need a forum like the Fundamental Rights Forum, where people come together, meet positions, that the various positions are tested up against each other. We cannot substitute, so to say, the real life meeting and the direct dialogue between the various perspectives, views, political opinions, and then just jump into our echo chamber. And that is definitely a risk that we only hear the same. And we need to, as I said

before, we have learned a lot of lessons and we need to engage the tech industry much more in finding the solutions. We have to look at what the EU, I think its very interesting approaches, sort of human rights based approach, to addressing within legislation the boundaries of the work of the tech industry and the social media.

GU: We're seeing that in even more general sense these days with this draft directive on corporate sustainability due diligence. Do you think that is the kind of tools that we need to regulate industry and to facilitate the democratic dialogue?

MK: I think that is, potentially, could be a very important tool, it's something that we have followed now the whole development of it, and look very much forward to that. It will eventually be adopted, I'm deeply worried about the retraction now, and question marks can be put to whether it will actually in the end be adopted or it will be watered down to an extent where it's not really interesting and not really serve the purpose. We've seen that tool as sort of, in a way, a package of the GDPR, the AI Act, and this one, the due diligence. And it's EU when it's best, when it comes to human rights, and I really don't hope that this will now be a step backwards.

GU: For the listeners, we could mention that we happen to be recording exactly as we're in this middle zone between, you know, of uncertainty of knowing whether the directive will be adopted or will be abandoned, which then pushes it to the next parliament session, which is a question of big uncertainty. So, yeah, it's a crucial and exciting moment and nerve wracking moment in this regard.

MK: It really is, because, I mean, when we travel, we visit all the continents, it's one of the issues that, constantly is coming back. I attended in the fall 2023 a big conference in Beijing; what did they discuss? That was the EU legislation on due diligence. I sat in a burger bar in Ethiopia, and there was a newspaper on the table, what was on the front page? The EU legislation. So, it's really sort of capturing across continents, it's something that potentially will have a very big impact. But there's also, let's say a worry in both China and Ethiopia and in many other places: what does this mean for our production?

GU: Thanks a lot. Going back to the question of these intersections between politics and human rights, I would like to ask you: do you think we should think of human rights as somehow above politics, as somehow politically neutral, as a set of norms that you ought to subscribe to whether you're on the right or the left side of the political spectrum, and that, in a certain sense frame the space for political decision making, rather than constitute a political objective in their own right? Does that make sense?

MK: I think it's very precise. That is exactly the frame. It is political, but it's not party political, it's our frames, the work of parliamentarians. And, I mean, they say they're part of the Constitution, it's something that you adhere to, that you, say, take into consideration when you legislate, when you budget and whatever you do as a parliamentarian. And again, let's go back in history, say, that was the lesson learned, I mean. Hitler was democratically elected, and then it started sliding. And so human rights sort of, as it was rooted with the Universal

Declaration of Human Rights from 1948, was exactly... so to say, you can do a lot as parliamentarians, you can have a lot of space to discuss all sorts of issues, and have a left perspective, or right perspective, or whatever social perspective, whatever perspective. But within this framework it doesn't count, even if you have 90% backing in the population it's still wrong to legislate on certain minorities and whatever issues it may be.

So that was sort of the pact, the agreement, the lessons learned, that we have to adhere to. But at the same time, it is one of the issues that I have spoken most often about in my 40-year career in human rights work: will parliamentarians really get them to understand that they cannot do whatever they like to, even if they have a very big majority? And it's very difficult for them to understand that 'but I have this backing and I can be tested at the next election'. Yes, that's fine, that's good, but there are limits, there is this framework, and it's neutral party politically.

GU: Yeah, the idea of human rights set the outer limits beyond which you can legitimately legislate but I'm wondering: are we nevertheless seeing a sort of tendency towards re-politicising some human rights agendas or linking them explicitly with political agendas? For example, for a greater degree of social equality, social justice, you know? We're witnessing, we're living in a time of deepening divisions, of marginalisation of significant communities, of rising wealth concentration, rising inequality in society and so on, and I have many friends and colleagues who look at especially the Economic, Social and Cultural Rights framework as a way of correcting those divisions, the consequences of neoliberal politics, and to assert human rights as a political instrument, so to say, for a greater degree of equality and inclusion.

MK: I think we have always seen various political groupings take human rights on board. If you go back to the 1970s and 80s, it was perceived as a right-wing project, the human rights, by the left-wing; later on, when we started discussing more, or linking human rights to the discourse on migrants and refugees, it was certainly seen as a left-wing discourse. So, it very much depends on what are the concerns at the moment, what is that is being discussed. But, I mean, again, I think I have always found that there's something in there for everybody, and so both the left and the right definitely can benefit a lot from a human rights-based approach.

When it comes to economic social rights, we have seen this unfortunate marginalisation of economic social rights due to the Cold War and that division that took place, even though that we sort of had the Universal Declaration of Human Rights which saw that integration and the interdependent, interrelatedness, that is now resurfacing, and more and more there is a necessity to come back to the interrelatedness.

And I will point to a particular one piece of work that I find very interesting, and that is the work of the Office of the High Commissioner called Surge, which is basically to look at the human rights economy. So, what is the human rights economy? What does that mean, a human rights-based economy? Here the economic, social and cultural rights play a key role, it is an important element, but not exclusively, also civil and political rights, and cultural rights... so the human rights economy, in a way, underpins that interrelatedness between the various sets of rights. And all this is coming out from the thinking that we cannot just keep on knocking on the

doors, as human rights persons, on the doors of Ministers of Justice and Interior, which (has) all had been the traditional caretakers of human rights, and that was also those that we addressed, but we have increasingly realised, and in particular with the neoliberal economy, that the Ministers of Finance, the financial... IMF, the International Financial Institutions need to take this on board much more. So, the human rights economy project is also to create that language that can open the eyes and ears of the economists, of the Ministers of Finance and the financial institutions.

What I sort of... a slightly bigger picture in this regard, I now see sort of a trend where you have the gender - or some people call it the feminist - economy, you have the carbon-free economy, and now increasing the human rights economy. And looking at: what is the common denominator of these three strands of economy? Would that common denominator, in a way, carry within it the embryos of a new way of thinking economy? So, getting some new economic paradigms, which are so much needed. I mean, one thing that worries me a lot is the increased economic inequality, globally that you refer to, and we see it globally, and we see it nationally. And from the works of a famous economist - Thomas Piketty - and others, we know that with growing inequality we also see growing harm on individual minorities and the poverty, but definitely also tensions, war and conflict [GU: and polarisation] and polarisation.

So, there is a very important agenda here, which luckily is surfacing, I noticed that the High Commissioner for Human Rights, Volker Türk, when we celebrated the 75th anniversary of the Universal Declaration last year, he actually made the human rights economy one of the key priorities for his office moving forward. So, there is something on the move, we all see it in the World Bank and elsewhere, that there is increasingly an interest in this or there is a recognition that the hyper inequality cannot continue: how do we actually address the hyper inequality?

GU: So, for this agenda to be effective, you or we urgently need partners also within the finance sector, the business sector and so on, because otherwise we sort of continue the polarisation and this will be seen simply as a left-wing political agenda that people get pushed back to and resist.

MK: Absolutely. It was interesting because at the Lund University in Sweden, where the Raoul Wallenberg Institute is based, we have worked with the School of Economics to actually to develop a master programme in human rights economy. And when the rumours started going about this master programme, I was called by people from the investment World Banks and others, asking: when can we have the first candidates? We need them, we need this knowledge to actually do a much better work in our investments. And we see this demand from the EU and elsewhere that we need to, and want to, adjust our work to. So, there is definitely a wider understanding than just you would say traditional left-wing, it is too narrow.

GU: On a similar note, I was just attending a conference last week in Riga, Latvia, on business and human rights, and in particular on this Corporate Sustainability Due Diligence Directive. And it was very interesting, those 100 small and medium-sized enterprises and consulting companies and others, who all wanted to know 'how do we handle this new set of

requirements?'. And they were doing it with not only, you know, reluctance and resistance, but with a lot of enthusiasm and interest as well, you know.

MK: I think it sort of underscores that the business sector relies very much on stable democracies, stable politics. I mean, of course there are sectors within the business world that really have a good time when there's instability, but the vast majority really prefers that there is stability, that a legislation is in place, they can predict what the next year's will lead to.

GU: Maybe a final question, a point of concern, I've been very interested in different variations of what I call scepticisms about human rights or critical reactions to human rights. I'm interested in the ones that are coming from the left, and you have a sort of classic Marxist position that is now articulated by various new Marxist schools, that basically says that you won't be able to realise the promise of human dignity, of dignified lives, of equality, human rights without fundamental changes of the underlying economic structures, and this kind of things. So, you sort of need something resembling a revolution, and then you can start to, or reform at least, radical reform of the economy before you can really seriously realise this vision of universal human rights. What do you say to that line of criticism?

MK: This is, of course, true to some extent that, as we have discussed, the economy is, and the neoliberal economy is, a challenge to realising human rights. But at the same time, I think that important elements are not considered in that critique. When I look back the past 30 years on what has happened within the human rights world on the ground - I mean, not only in the narrow world, but also how has human rights actually impacted people - first of all, I mean, we've already talked about, the number of people actually having the possibility to vote, I mean, that's already a very big change. We already see it, for example, throughout the African continent, a much more, much higher trust in the courts. So, we have more peaceful transitions after elections than we had previously because people turn to the courts. The way we talk about minorities, yes, it's bad on the social media etc. but let's not forget that, for example, on our perspective, on persons with disabilities, I mean, when I was a kid we talked about a disabled person, today we talk about a person with disability and our whole perspective, that's also a new perspective follows from that. And that came with the Disability Convention. The Rights of the Child, the way children are brought in and seen... also at this conference at the Fundamental Rights Forum, we have no children, but youngsters on board. So, there's... a lot has changed. You could take gender as well: if we take women, today in most continents, in most places, I would postulate they're much better off than they were 40-50 years ago. A lot has happened on gender equality. Yes, there's an enormous amount of problems, we see countries now, like Afghanistan, we see Iran and other places, we see a high level of violence against women, also in our own communities; but when that is said, a lot of progress have also taken place that we need to build on.

So, I think we need to sort of nuance the picture and I think some of those critiques that I've also read and also reply to in some articles, it is too simplistic, and they always see, they sort of derive their conclusions from a very narrow sample of examples. And they do not see the broader picture. But when that is said, there are definitely things that end on economic social rights, where we need to move in the coming years.

GU: Morten, I think our recording time is coming to an end and maybe just a final thought on what do we need to do now? We see this polarised political space, we are just witnessing the presidential election process in the United States - which of course sets the standard for the rest of the world - we've seen what happened in Argentina, we're seeing similar trends in many parts of Europe and European parliamentary elections coming up and so on. What do we do to convey this message outside of the city hall of Vienna where the FRA Forum is convening a thousand human rights advocates and defenders? How do we get that message out into the wider public space?

MK: Alright, George, I would love to give the reply, but we need to be much smarter in communicating, we need to take communication more seriously. We only have to go back 10-15 years ago, a human rights organisation to say: 'okay, here I have a 250 pages report on a particular issue; you read it, you take it, if you don't read it's your problem'. I think in recent years, we have turned it around and say: 'if you don't read it, it's my problem. And I need to make it much more accessible'. So, when I worked at the Fundamental Rights Agency we did a lot to... actually with two pagers, with videos etc. and I think it's much more common today. But it is fairly novel, that we are thinking in terms of communication, we need to sort of get a little bit down from the high horse.

Another element where again to have a promising development, is that what we see now the human rights-based approach is really taking root, is being developed in very many cities across all continents. So, the whole human rights city movement is one of the most encouraging steps and, sort of, it underpins this bottom-up development that we see. We see mayors who are deeply frustrated about the populist, the us and them, the dichotomist, the divisionism that the national politicians create; because when you're mayor in a city, I mean, you want your citizens to be together and sort of have a nice life in that city... it doesn't go everywhere, but that is very much so. So they work really seriously with how can we actually transform these human rights norms and standards into reality.

So, we work with a human rights-based hospital, we work on human rights-based mobility in a local community. And I tell you, when you start these processes, this co-creation of what does this mean at our local space, then you really get people engaged, and they start re-believing in democracy as well. Because we really have to be careful of not sort of be cynical in relation to democratic institutions, but looking for where is it that you have democratic structures that are really enthusiastic and have a potential to reach out to people and re-engage people in the democratic living and human rights?

GU: Morten, I think that's a perfect note to end the interview. Thanks so much for joining us in the Global Campus podcast series.

MK: Great pleasure, George.