Global Campus of Human Rights

Podcast Series 3 - Reimagining politics through human rights

Episode 8 - Reimagining governance through human rights
Anja Mihr

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): Hello from the podcast to the Righthouse produced by the Global Campus of Human Rights. I'm Graham Finlay and I'm one of the hosts of our third series 'Reimagining politics through human rights'. In this episode I'm joined by Anja Mihr, a political scientist who studies international human rights law and transitology, academic supervisor of the Master of Arts and Human Rights and Sustainability in Central Asia, and founder and Programme Director of the Centre on Governance Through Human Rights at the Berlin Governance Platform. Welcome Anja and thanks for being with us. We couldn't ask for a better guest to talk about 'Reimagining governance through human rights'.

Anja Mihr (AM): Thank you for having me.

GF: So, you have a very very interesting recent book on 'glocal governance', and you've argued in favour of glocal governance. Can you describe what that looks like? What role do human rights play in that form of self-government?

AM: Well, the glocal is obviously composed of two terms: the global and the local. It started already in the 1980s coming from economy and the globalisation movement, but very soon in the 1990s, by an early writing in 1992 by Robert Robertson, it became clear that glocal governance, and therefore also governing through human rights, means a bottom-up approach, basically that local initiative - that we know as non-governmental organisations, civil societies, but also individuals and human rights defenders - determine global norms.

So, in a nutshell, glocal governance - and later I will talk about what glocal governance means for human rights realisation - glocal governance means that we have global norms such as human rights norms and standards - the human rights regime, the international, the global one - and local activism initiatives, local implementation. And everybody who hears 'glocal' will immediately realise there is a lot of global and there's a lot of local but there is no nation state in this concept. And basically glocal is a response to, let's say, an eroding statehood. Within Europe, or North America, Australia, New Zealand, you probably would not notice the eroding state, because the nation states, the state works more or less stable, but in the rest of the world - and we know it since 2024 that we have more authoritarian and autocratic states on the planet, which is an indication for dysfunctional state - the majority of people in the world do not live in stable, let alone rule of law abiding or democratic countries, and in these countries, in particular, the glocal is super important because people cannot trust state or state institutions. And here we come to, in terms of human rights, the duty bearer: it's not there, it's not the state, there is no rule of law, there is no independent judiciary, there is no government, there is no independent human rights commissioner in all these countries who could protect or promote human rights for people. So, people on the local level directly

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adhere to global norms, and we have particularly seen that during the COVID pandemic, where the right to health and what it implies on a day-to-day life was very important to people on the local level, we had no other institutions to turn to, except for global or international ones.

GF: No, that's very helpful, and I already have a sort of vision of the kind of participation you're looking for and it includes human rights defenders, but also whole communities. And I think it's going to probably vary from, would say, country or state right now because those are the geographical areas we have, but it's very interesting to shift our attention to these local communities. I mean, all of these communities are different, but at the same time they might face global threats, right? So, how can we safeguard democracy very particularly of your sort, freedom and human rights from these threats? And what do you think those threats are?

AM: Well, apart from the so-called global universal threats, as some would call them - the climate change, the artificial intelligence, the global mobility and migration - one thing this sort of... I call them 'external threats', even so they are man-made of course, but these external threats even there, we realise that one state alone, even the strongest, the most stable ones will not fix it. Nobody can sort of tame the impact of artificial intelligence alone, even if some countries like China still believe they can, by controlling, by censorship, for example. So this is one trigger that basically states realise that they have to collaborate more, that they have to work more together on a global level - as we have seen, for instance, again, the European Union here is, of course, an example, but also the United Nations. Just taking the recent EU Digital Service Act that is literally copied by dozens of states outside the European Union; you know, when you go to Southeast Asia etc., other states were incapable of creating this sort of international global norms to protect the right of privacy, the right to information etc., or customer rights. Copy from other, let's say international, supranational global regimes, their normative legal and political standards and implement them, because these states are incapable of doing it themselves. And what this implies? It's pretty dramatic, because people on this planet they're not stupid, they realise that their states, their governments in particular, are no longer solving the problems. The big, sort of the big, the external threats, as I call them, the same we can say about the climate change regime, the COP, the UNFCCC, the Kyoto Protocol was a global normative framework that resolved local climate change-induced problems, migration, etc. etc..

So, we are talking here about dysfunctional states, and how they get almost in a dramatic way further eroded through these global norms, because people no longer abide to governmental decrees, laws, restrictions, they're trying to bypass them, and what it means we've seen currently all around the world, of course, there's a lot of local and national conflicts because governments retaliate. But these governments are dysfunctional and often authoritarian, non democratic countries. And since we're talking about what... the glocal governance as a sort of third way of governing between functioning democratic states - which are an absolute minority on this planet, I mean, we should be realistic, if we have 20-25 states on the planet who are consolidated democracy, I'm quite positive here then, or maybe optimistic. The rest of the states - we still have another 150-160 states - are dysfunctional, to some extent, even the so-called parliamentarian democracies among them. So in these... So we have what some would call a global, not even a crisis, but sort of a global dysfunctionality, even of representative parliamentarian democracies, to some extent. And, of course, what we would call the authoritarian, dysfunctional, extremely dysfunctional systems: these can be mafia states, so-called mafia states, basically de facto run by organised crime, or states, as we've seen also on the Eurasian continent, but in Sub Saharan Africa and Latin America, who live many off remittances.

So governments have no longer control of the economy, one party systems, etc.. What is interesting in these sorts of countries that even call themselves democratic - they hold elections, they even become members of international human rights regimes and the various committees in the UN Human Rights Council, etc. etc., (even in the European context: they are members of the Council of Europe, they adhere, they come to the meetings) - but what is interesting, also from sort of a political assessment point of view is: who governs in these countries not only de jure but also de facto? And what we recently noticed in the last 10 years with this debate about backsliding of democracy, that many of these so-called dysfunctional systems and countries they're not only no longer... governments no longer control, shape, govern de facto, but also they have established bodies next to parliaments and governments de jure in the constitution. We have seen this in Russia with the Security Council, we have seen this in large Asian contexts in many countries, so-called traditional councils, councils of elders etc.etc., who are not elected, who are not legitimised in a way, and they're de facto and de jure governing the system.

So when it comes there to democracies, the democracies are eroding themselves from within, but here comes again glocal in it. People realise and they say: 'look, these de jure and de facto governance systems - which we call dysfunctional - no longer resolve the problems, and therefore, we go one level above and look globally - and thanks to the internet, that is often possible - where and how in other countries this is resolved'. We have seen over the last two or almost three decades now, the dramatic rise of international organisations, of international aid organisations, who replace and here comes the public sector in these countries, the health and education sectors. In some countries, we have 70-80% of the public sectors, which is the core duty of the government, to be completely held alive by international donor organisations, aid organisations, you name it, health and education are the most prominent. And of course, people therefore say: 'look, I know that this international organisation helps me or, you know, provides education for my children, but the government doesn't. So these dysfunctional governments, they erode, they collapse and therefore, we have something... it's also called ‘liquid democracy’ and there are many other terms for it. But the question is: yes, we see the eroding statehood, we see that people, local people initiatives adhere to global standards to fix their local problems, but we don't really know how this system, the glocal governance system, should be sort of in a way democratic in the future and legitimised. But there are some ways, some ideas to do it.

GF: I think that's a very interesting perspective because in the development space this sort of predominance of international organisations, and even maybe donor organisations providing basic public services, is usually seen as a very bad thing. You know, it's a sign of the... we don't talk about failed states, but the failure of the state, as you say and, but it's also seen in terms of a notion of dependence on development aid, which is something we want to encourage states to rise above, right? Become to develop and become completely independent. And it hadn't struck me until you've just said that, how much of an investment in the idea of the Westphalian state as the goal, you know, still remains, you know, even in our most benign development discourse. So that is a very very different take. Do you think that that is sustainable in the long term? And will it vary from state to state?

AM: Well, personally I believe that - since you talked about the Westphalian state - the idea of a nation state, you know, and also creating therefore peace and stability, we all understand the idea and it made sense for a couple of centuries, also knowing where we came from. However, today, I don't think there is a future for the nation state (to) last, even for simply a state as such, because of this global mobility and the

exchange and the identity politics, which we cannot go here into detail, but I think Francis Fukuyama already alluded to us a couple of years ago with his book, also the future conflicts are about identity conflicts - and I'm always impressed by him how right he was when he predicted something like that. But apart from that, so these states, particularly the nation state, I don't believe it has a future: it already de facto does no longer exist, except, again, if you stay in the European context, you find functioning nation states, but it costs them a lot of efforts and a lot of debts to remain a nation state. So we're not going into that in detail but more what is happening in the rest of the world with this nation state is that governments have already given up to even hold the idea of a nation state and a nation. And they turn de facto into, well, the term would be organised crime states, run by shadow governments, deep states and so on - they're all this sort of terminology. But we have to face the fact that governments, even the elected governments, are no longer in charge.

And here I want to… since you were again mentioning the Western sort of ideal, let alone not only the democratic ideal, but also the way of life: for many years, and I was one of them, I was defending that, yes, the Western way of life remain sort of an intriguing benchmark for many many people around the world, particularly the young people. And I was wondering: what about the so-called Western lifestyle, whatever that is, is the intriguing part? Today, I would say lifestyle is too general a term. What remains intriguing, what we established particularly here in Europe over the past decades is a rule of law and an opportunity-biting, let's say, governance concept. And here again, it is not so much a particular country or a state that is an example for good rule of law and equal opportunities for everyone, particularly the European Union here created this concept that this is the ultimate goal. And yes, that is intriguing for many many people around the world. And it is a benchmark for people. We see this currently in the Ukrainian war: when you ask the people why they want to join the European Union, the first top answer is rule of law and opportunities, equal opportunities, chances, possibilities. Nobody is naive enough to believe that everything is immediately equal, and everybody…and justice is coming about, but they know something… or why the rule of law is always mentioned and the opportunities - which are also core concepts of international human rights conventions and norms and standards. Why rule of law and opportunities is always mentioned is because these people see that their states are not providing it. And again, we're talking sort of nine to ten billion people on the planet, of which nine billion do not have exactly that rule of law and opportunities, but they all wish the same. And here comes the glocal governance in, and again that what I mean before, the people… of course, I can't generalise for nine billion people, but you can see the same sense of dissatisfaction with national governments, but the wishes of the people remain the same.

GF: That I think is a very very interesting perspective. In a way - I'm going back a little bit - but in a way, the idea of Ukrainian refugees and the war in Ukraine and then the general issues surrounding global mobility, which as you say, are providing sort of identity crises for even the wealthiest western states, it raises the question of territory, which also is associated with the Westphalian state, but also the role that these states like the European Union, regional organisations like the European Union, in a way defusing or transcending the old territorial arrangements. You know, I live in Ireland, we are not in the Schengen, but, you know, Schengen has really reduced the territorial importance of European boundaries in ways which I think we are seeing increasingly… not replicated but you know, inspiring regional organisations around the world.

AM: It's very intriguing that, exactly, that region in the world, the European Union member states as a region - the most stable sort of states that we can still find on the planet - we were the ones who started

the erosion of the nation state of Westphalian concept, sort of in legal terms by creating a supranational and here of course, institution, such as the European Union, which still is the only one and pretty unique concept. And of course, when you have a supranational institution, the nation states have to give up power, it goes without saying. But whereas here in the European Union this is sort of organised and in sequences and stalled and negotiated - it's two steps ahead, one step back, and we all know the speed and the pace of it - in other parts of the world this goes mostly uncontrolled, because also autocrats do not have de facto the control over their territories - they can only govern through threats and fears and terror - and therefore need the alliances of what I would call the organised criminals - they are called different ways in different countries, the clans, the groups, etc. etc.. So, but in the essence, what we see in these countries is a rapid dissolvement of nation states. They might still be called so in some sort of state, but it's a sort of a hollow, empty nutshell, if you want to say these territorial borders, but de facto - and this is always the intriguing question for every political scientist - not de jure but de facto: who governs? Where do people go when they seek solutions? And what we've seen over the past decades and again, COVID was, in a sad way, a laboratory of observation for political scientists, because when people had issues, not only health issues but also how to get food and water and all sorts of public services, where did they go to? They went to local entities, sometimes religious entities, or the clan leader, or even sort of the organised criminals, etc., and at the same time they often addressed international, in this case, the WHO, the World Health Organisation, agencies for help. So, they didn't even dare to go to the national health institutions, because often they didn't get an answer. And I always recall the story of the situation in the country where I spent most of the COVID time in Kyrgyzstan in Central Asia, which is de facto an authoritarian, an autocratic state, and where the Minister of Health two weeks after the global pandemic was called out, went on a health trip to Germany, he left the country. And this is not an exception, and he didn't return for quite a while. So he left the country which was in lockdown, during the pandemic, completely on its own, and the people helped themselves. And that trust, if there was any trust left already in state institutions, that was completely lost and was never regained afterwards. And this is just one of many many countries. And still people of course, they go to their local and national authorities for issues that they need, whether it's passport, ID cards, etc. etc. but we should not be fooled, this is not the core duty of a nation state, let alone territorial sovereignty, it's completely hollow what we see.

GF: I think that's really helpful for us to reconceive some of the things we are interested in talking to you about. And I want to go back to maybe the politics of this, because obviously, the politics of a situation like that is going to be very different than the way we might think of politics in Ireland or in Western Europe or something like that. And I think you're able to help us reimagine what that politics looks like. And I want to ask about young democracies, as we like to call things, which is also usually a lot of wishful thinking in some cases, a bit like developing countries. But you know, what do you think? How can we reimagine politics when we take our gaze away from wealthy western states, and look at all the countries where democracy is sort of either recently established or under threat or perhaps has not really ever been de facto the way of governing oneself? And where does the politics happen in that kind of state? Where should it happen?

AM: the biggest transition period from autocracies to democracies - global transition period - we had from 1990 approximately to 1993, after the collapse of the Soviet Union; by the way, worldwide, many of the proxy states, of course, that were trapped in the middle of the Cold War between the two systems, they also went on the pathway to democracy or not. So, already 10 years later, roughly around the 2000s, we could see which of the many countries who were the very young democracies at that time, almost half of

Eurasia - including not only the post Soviet countries, the Eastern European countries but also Turkey for instance was one of the countries - we saw the same reforms in many Sub-Saharan African countries, let alone the Latin American countries which started already in the 1980s.

So we had half of the countries that we count today starting off as so-called young democracies. And around 2000 we could already see which ones would probably make it to a consolidated democracy, and I can say - and probably not a surprise - that out of the 50-60 countries we probably counted at that time only 10 or 15 would really make it to consolidated countries. And so I will not talk about them - we can talk about what they did right and learn from that - but what did the many others didn't do to fail or, what we already say, backslide? And one of the sort of obvious - that every observer can see the obvious element - is often in the transition processes of these young democracies were halfway through: a lot of the previous regimes' elites stayed in power. And also what I said earlier, what we can observe in many of these countries who are today back into autocracies and only have a history of 30 years - they are very young countries and they're back and full fledged autocracies, including countries like Russia, which everybody knows, but also Azerbaijan would be an interesting case to look at - and when we look at that, we could see that the reforms that were necessary, let alone let go of what we call 'transitional justice' - you know, bringing sort of those responsible or perpetrators for the past crimes to light into justice - did not take place in these countries. This is a very, very obvious pattern in all the authoritarian states, young authoritarian states, sort of young democracies to young authoritarian states that we can see today in all of them. None of them has thoroughly dealt with the past or - now comes the second element - what we also see, the second pattern in these countries (is) that they keep traditional, what I've said earlier, de jure bodies alive. For instance, in the post-Soviet space we find many of these autocratic regimes today, they remained one institutional, they kept one institution from the Soviet Union times alive, that is what they call the Security Council. It's a de facto and de jure decision-making body within the government that is not elected, that is not authorised, and it has a lot of power. In what we call the Islamic Republic of Iran or other various sorts of traditional countries, you often have religious bodies aside, not elected. We see the same in Southeast Asia, in some of the countries. And then of course we have China, where we have many de jure bodies who are not, not even through their sort of fake democratic procedures that they have been put in place.

So this is... these are two patterns: the lack of let's say transitional justice with the past to rupture with the past regime, plus having de jure non legitimised governing bodies aside. And this is what these young democracies have not done. Now comes their explanation when you ask them - I know I generalise, of course, it might be different for a country in Sub-Saharan Africa or in South America than in Central Asia - but one thing they have for justification, they say: 'look, we couldn't bring, we couldn't clean, or we couldn't do the vetting and the lustration process as thoroughly because we didn't have the money and we have to keep some of the former communist leaders alive. Please understand this, we couldn't do it because we were not wealthy enough'. Yes, but other countries weren't wealthy enough either and they could do it. Okay, first example. And then the second example that is often brought by these countries as a justification for de jure extra bodies is that they say: 'well, these are our traditions, all countries who go through a transition process to democracy keep sort of traditional values, traditional bodies, traditional whatever council of elders alive'. Yes, that is true, but not de jure, not in the function: there's one thing whether you have sort of an informal advisory body that you can tap on etc., or whether you have de jure governing body aside next to the parliament and to the government who takes decisions for the country. So this is the

two patterns that we can see or the two elements in all these young democracies, what they did generally wrong. And then you can of course go into details and you find many many more elements.

So we're not lacking knowledge and understanding why young democracies have a problem, but in a way, I think sometimes these states who have now massively, dramatically backslide into authoritarian regimes, there might be even an opportunity for all of us, in this big talks about new global order and the fight between democracies, autocracies, whatever you want to call it, or human rights versus traditional values, whatever traditional values are, is that the people in these countries they are not only mobile because of the travel opportunities, but they are also mobile in terms of knowledge transfer. And I'm always impressed travelling to these countries, and half of my life I've worked in authoritarian countries and autocratic countries, the understanding and the knowledge they have of democracies, of a different sort of governing regime; and here again, that's why I'm so confident that these people, when it comes up to rule of law and opportunities really share the same, let's say values or virtues that people do in democracies. And the other observation is yes, they might be often very frustrated and do not have the energy to oppose their countries, they're threatened or intimidated, and you name it. But it doesn't mean that they are happy with their autocratic countries. I have not seen that. But yeah, okay, I'll leave this here for the moment.

GF: That's very helpful, because at the next, we've talked so much about authoritarian states, and I do, I still want to hear more about how this is supposed to work in the authoritarian states, which, as you say, are increasingly not just more common, but are even sort of proud of their authoritarianism to the point of really, quite overtly moving away from democratic forms and norms. So I just want to ask a little bit more about the politics and new ideas of politics in that space. Because I was really struck by how you were just talking about sort of communities, of affinity and forms of solidarity or fellow feeling which are across, again, the globe, I mean, they're really, they're not just international, they're global, in the sense that people through the internet and through just the spread of information through so many ways, and even culture, can feel affinities with people in places they have never been and and they might not ever get a chance to go to. How does that work as a politics in these authoritarian states? Does it rise to the level of challenging these authoritarian forms? Or is it simply a sort of dissatisfaction which very often leads people to vote with their feet by trying to leave these authoritarian states?

AM: That's a very good point. I think - of course it depends, again, from state to state - but there's an interesting observation that in many of these authoritarian countries, when I asked particular colleagues, local colleagues who are from the countries but who have travelled the world and can compare, (and) they say: 'look, we have an autocratic government, whatever autocratic government or a mafia state, and they're a small elite. And yes, they abuse the country, they get the money out of the country and abuse it in a way, the resources and everything, we all know that. But as long as they leave us, the other 90-80% of the population alone, we can survive in this interesting statehood', I call it now, where you have these very small elites do what they want but there is a limit, there's like a social contract between the societies. And that's often in these societies or in these countries, where the people don't pay taxes, because they don't have a functioning tax regime, they live off remittances, etc., and this is part of the social contract: 'we let you live in this territory of your ancestors, you live here for hundreds and hundreds of years with your family, you arrange yourself, in a way, we don't touch you, but you do not oppose us'.

And that is also why we see often in these countries, local conflicts being often so violent because that is under the orbit and below the control of the governments. And here comes the glocal in it: what we've seen

that many of these local conflicts among small groups of communities - whether it's ethnic, or religious or economic, for economic reasons - most of the conflicts are actually economic and not as ethnic or religious - and the government often is completely absent or comes in weeks later. And why is that? Because of the social contract, that is an unwritten social contract. And for me, it was a very interesting observation in these countries, and many of them told me this. So they resolve it locally, let's say. And often here we see what I described at the beginning about glocal governance, where many of the local leaders (they) say: 'well, I'm not calling the Minister of Internal Affairs or the police or the military or the government. I'm going to, let's say, the international normative framework. Let's look at the website of the High Commissioner for Human Rights in Geneva, what they do about rule of law compliance or resolving minority issues, or issues with people with disability, women's rights, child abuse, child labour etc.. Where do they get their ideas from to resolve local conflicts by themselves? And that is particular in countries… again, Asia is a very interesting place to observe because you have a very vivid sort of local civil society and local actors. The challenge here is, of course, how democratic are these local leaders or local initiatives, but I wouldn't underestimate that there's some sort of form of democratic or ways of electing, appointing these people and mostly known, of course, by the multi stakeholder approach - the idea that you bring different stakeholders into councils, for instance, to resolve local issues. We do not have the time here but there is a plethora of examples of local or some call a local peace building. And here comes another element in it. Not only that local groups, without any governmental intervention, resolve their problems, they often get help, if they get help, from international organisations to resolve as monitoring groups. We see the same now in the Israel Gaza conflict, also the role of international organisations playing in there for resolving on the local level the most severe human rights abuses and dealing with that, and that is globally an observation. Interesting enough, I think that these national governments who do not interfere with 80% of their population and let them basically alone, that they still think that they can remain in power for an indefinite time by not caring about, let's say, the public sectors, public security, public health, public education for their people, and they leave it completely to local authorities and international organisation. That is sometimes astonishing to me. But maybe they know something that I don't know .

GF: Well, I have to get this question in. We've talked in such a sophisticated way, but you are the director of a centre for governance through human rights. And just very quickly if you could tell us the difference between a politics *and* human rights or a politics *of* human rights and politics *through* human rights?

AM: Well, politics *of* human rights is basically the duty bearer and the right holder issue that we've all grew up with, with the idea of a functioning state authorities or authorities in general who execute certain policies into politics and basically doing something protecting our rights and making sure that there we have access to justice, that we have access to education, access to health. So this is sort of executing policies of human rights, that is politics and human rights. And politics and human rights is still our main benchmark, for instance when we look at the annual reports, whether it's of NGOs or even governments about how they can reform in protecting, promoting human rights, classical politics and human rights.

Politics through human rights has a different sort of approach and benchmark; it's basically how international human rights norms - and we're quite broad on this normative framework - are included in every policy of an entity that could be local. And one of the pioneers of politics, let's say, through human rights were the sanctuary cities in the United States later across the world or, for instance, already back into the 1990s, San Francisco gave the example of saying: 'we are going to ratify the CEDAW Convention, the

Convention Against the Discrimination of Women. We don't have to, we're a city, we're not a nation state but we do it as a commitment and we want to mainstream women rights in all our local policies'. And that would be sort of politics through human rights, or governance through human rights: not looking at how (did) you fulfilled human rights, but how have you mainstreamed it, basically, not only in the polity and policies but also of course in the politics.

GF: Well, Anja Mihr, thank you so much for helping us reimagine governance but also politics of human rights. And I think we look forward to seeing how your new form of glocal governance develops in so many different states around the world.

AM: Thank you. Thank you for having this topic today.

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