

## Podcast Series 1 - Engaging with Human Rights Scepticism

### Episode 5 - Unicorns, utopia and mockery Costas Douzinas 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.

**George Ulrich (GU)** - Hello out there. Welcome to the Global Campus podcast series on engaging with human rights scepticism. Today is the fifth and final session in our podcast series. Our topic for today is the most fundamental and perhaps most challenging expression of human rights scepticism, namely the question of whether the very concept of universal human rights is at all meaningful. We refer to this as ontological scepticism, as it raises questions about the reality of human rights: are human rights real and in what sense - or - are they fictions, mere constructs, instruments of oppression? This raises questions about universalism, about our common humanity and about the historical legacy that over centuries has crystallised in the universal human rights international law framework.

I'm George Ulrich, Academic Director of the Global Campus and host of the podcast. With me today to tackle these profound questions is professor Costas Douzinas - professor of Law and Philosophy at Birkbeck, University of London. He was founder of the Birkbeck School of Law, the Birkbeck Institute of Humanities and the School of Law at the University of Cyprus. Costas Douzinas was also a SYRIZA MP in Greece from 2015 to 2019. His primary focus over many years has been on critical legal studies. In the course of this distinguished scholarly career, Douzinas has been an early scholar of human rights, but also an early critic in a constructive sense. He has powerfully raised questions about humanity as a parameter of exclusion as well as inclusion, and also about the possibility of human rights colluding with dominant economic and political interest in the neoliberalistic and postcolonial world. Douzinas's publications include a trilogy of seminar books called 'The end of Human Rights', 'Human Rights and Empire' and 'The Radical Philosophy of Rights'.

In today's discussion, we'll focus primarily on arguments presented in the third volume of this trilogy, 'The Radical Philosophy of Human Rights', which by the way, includes material separately published as 'Seven Theses on Human Rights', which have been standard reading assignments and seminars that we've been conducting here at the Global Campus for several years. Some of the main themes of the book have to do with conceptual analysis of the legal person, dignity, the self, paradoxes of human rights and also in the final part, the revival, the claim to a right to resistance, indeed revolution. We'll try to touch on all of these aspects of the argument. But first, I would like to invite you, Costas, to share with us a short

reflection on what motivated you to undertake this critical examination of human rights and human rights law over the course of at least 20 years or more.

**Costas Douzinas (CD)** - Thank you very much, George. I'm really honoured and delighted to be discussing with you in this series of podcasts. I think they're making a very important contribution to our understanding of human rights. Now, you asked me how I got to that kind of work and these books that you refer to, and I suppose the most important reason is my personal history. I was a student of law during the brutal dictatorship in my home country of Greece between 1967 - 74 and I joined the students resistance at the time, I was roughed up by the regime. And I was really delighted when the Council of Europe expelled Greece in 1969, after the case was brought to the European Court of Human Rights by Denmark, Norway, Sweden and the Netherlands. Indeed, Russia is the second country to be expelled from the Council of Europe, as it was done earlier this year.

Now resistance, which goes back to my personal history, is a main topic and the main interest for me and my work, and the resistance of the Ukrainians today is a reminder that humanity always emerges through acts of resistance and natural rights, the predecessor of human rights, was of course again, the result of a revolution. Now, the second part, which is more kind of the intellectual roots of my work, is that after the end of the dictatorship, I went to London to carry out my doctoral research at the LSE. And pretty soon I encountered a certain theoretical or conceptual difficulty. Human rights are perhaps the most important, or one of the most important liberal institutions. But if you look at liberal, legal and political theory and philosophy, I think they actually leave quite a lot of standard social theory out of it, they're really highly problematic. What you learn - if you go to sociology, politics, anthropology, any of the standard Social Sciences in the first year - is what has been called the three major continents of thought. And they include Hegel and Marx, of course, dialectic struggle and so on, Nietzsche and Foucault, will and power, and of course, Freud, the post Freudian, psychoanalysis and subjectivity. None of these appears in any of the standard textbooks, theories in jurisprudence and so on. We have somehow an eraser of 200 years of social theory, and most important and extremely, I think, central theories of political philosophy go back to the 18th century to the social contract, the categorical imperative. They deal with people as if they're fully in control of themselves.

I think, when I was reading all these people, all these philosophers of the great social theory, Western social theory - while at the same time doing my PhD on human rights - at some point I decided that I should put the two together, and this is in a sense what my project has been, to basically work out how we reached where we are today. I mean, what does it mean to say that we're human, what it means to be human. So to that extent, this kind of work, tries - whether it succeeds is a different question - to work out a genealogy of human rights and of the human to understand how law and rights and human rights are key contributors, the key tools in the creation of the human person, of the human individual, the human.

So rights, I would claim - I think this is my key conclusion in this work - rather than being given to humans from account of the humanity - because we're all human, we have rights - it is the types of rights that are given to particular people, in particular ages, in particular countries or societies, that create the human, create the self, ourselves. And in doing that, rights, human rights, the law in constructing you and me - what it means to be a human in a particular place at a particular time - they also distribute people, humans, across a spectrum

of full humans, of lesser humans, and at the end also of some people who are excluded from humanity.

**(GU)** - So maybe this is a good place to pause. Thanks so much for these introductory reflections, which in fact, take us right into the first part, the first several chapters of your 'Radical Philosophy of Rights', where you're analysing the genealogy, as you say, of the legal person, but also concepts such as dignity, self, subjectivity and the role of rights in these contexts. You also have occasional contrasts with pre-modern ways of configuring similar issues and topics and I find it all extremely enlightening and challenging. Now, if I understand your argument correctly, what you were telling us about how legal personhood is created by society and in many ways, as you say, is distributed and some have more entitlements than others through the allocation of rights, if I understand correctly, you contrast this with another concept that runs through modern European history, 'the moral self', which is the subject of Kantian dignity and in many ways, also the implicit subject of the human in the international human rights framework, at least as I understand it. So you have 'a universal human self' and then you have 'the legal person', the socially created identity that has differential value and access and entitlement and so on. How do you see the tension between those two different ways of interpreting or configuring the idea of the human?

**(CD)** - Yes, sure, yes, there is a tension, there is also a configuration - as you put it - a coming together. In a sentence, my conclusion is that the idea of the human, of the self as free, rational, equal with others, which is very much part of the human rights tradition, is the outcome of a long historical journey that goes from Jerusalem to Athens to Rome to the 18th century revolutions and, of course, the contemporary Declarations of Rights.

So, 'the legal person' first: the idea of the person and the term 'persona' in Rome initially was a theatrical mask, the mask that actors were putting on stage in order to adopt a particular character. So it was the mask that ritual and theatrical performance put on people. But then Roman law transferred that function from the stage to the human and the idea of 'the legal person', of 'persona' in Latin, was created in Rome. Of course it was at that point, and I think still today, both a general predication, a general characteristic of some people, but at the same time a tool or a way of distinguishing between masters and slaves, between senators and politicians and citizens, between people with certain 'dignitatis' - 'dignity' started its life as 'dignitatis', as the privileges, the honours, the public recognition that some people have and others do not. So that is the beginning of 'the legal person', of 'the persona', as a legal term, which also goes parallel to that idea of differentiated dignities, 'dignitates'.

Then, of course, Christianity changes that, 'the person' in Christianity - which follows the three versions of the Godhead and so on - becomes something of a metaphysical idea, something that brings together body and soul and turns the human into the image of God, into the reflection of God - man was made in the image of God. So that is the first time of a conception that distinguishes 'a legal persona' into 'a moral person', into someone who first of all has the possibility of universalization - although not so much in the Middle Ages where, of course, only the Christians had those characteristics - but has that possibility, that potentiality in it. Then of course, when with modernity the idea of 'the person' now acquires a secular character, most characteristically in Immanuel Kant and the metaphysics of Kant, then of course, at that point, 'the person' becomes what we would recognise even today, 'the autonomous person' who makes rational choices, has reason, acts morally, accepts responsibility for her actions. So that is, in a sense, the way through which what initially was

distinguishing things and people becomes a universal characteristic. That of course moves on into the French and American revolutionary documents which extend personality to all - 'everyone is born free and equal in rights', that is the key claim of the French and American Revolutions - and therefore that idea of 'a moral personality' becomes the quality of all humans, it is the attribute of the moral, of the rational part of the human.

'The legal person', however, continues her life. 'The legal person' is the point of contact between law and concrete humans: 'the legal person' is a combination of rights and duties, of responsibilities and privileges. Of course, it is not 'the human', it is a different conception and different configuration of relations and abilities, which is parallel to the 'human' and indeed, many 'legal persons' are not human. Historically, the corporations, I mean the church first and then corporations were 'legal persons' next to the limited number of 'humans' who were and today of course, 'legal persons' can become all kinds of entities, including robots and artificial intelligence, and all the rest.

**(GU)** - So, yes, maybe let me just interject but this is, I think, very clear and to me very challenging and interesting. So we have the tension between 'the legal persona' and 'the universal moral self' and we see that latter, that's reflected in the claim also of the Universal Declaration of Human Rights 'all human beings are born free and equal in dignity and rights'. That's our ideal. That's our vision. And what you're saying is that 'the legal person' that is the carrier of rights doesn't always reflect or match that type of universality. Of course, we've seen this, I remember quoting in the concept note for this podcast Catherine MacKinnon, who in the 1990s was very strongly saying that 'being a woman is not yet a name for being human', simply saying that the legal framework does not address women as fully human. And, as you're saying, that's true of many groups that are being marginalised and excluded in terms of legal personality, throughout history and still today. But could one say that there is, at least within the human rights framework, an attempt to rectify these shortcomings and gaps? I think that if you take international law, and someone like MacKinnon may even have been a driver of this - she has been insisting on recognition of, for example, sexual violence within the international humanitarian law and criminal law framework and so on - so there's an attempt at rectifying the deficit. Is that a fair point? Or is there a chronic deficit, so to say, in the end?

**(CD)** - It is a fair point in the sense that the deficit or the gap - as you would put it - between the universality, the moral universality of the person and the actual empirical rights and the actual empirical recognition of the status of the citizen, of the ordinary person of the world, that gap exists right from the beginning. In the French Declaration, in the American Declaration they say - as you repeat it also yourself from the Universal Declaration - 'everyone is born equal in dignity and rights' and at the same time there are slaves, women have no political rights whatsoever, people without property have no political rights. So there is this gap and human rights - you're right in saying - promises somehow to close the gap. And it has closed it in certain ways. I totally agree with you. And of course, Catherine MacKinnon was key in turning rape and sexual violence into a crime against humanity that was recognised by the International Criminal Court. This is absolutely true. But what I'm saying is that, historically, this gap is there, it has not disappeared. I mean, obviously, more groups have been included in that idea of the moral personality, of the universal attributes of humanity, but the gap is still there. It changes from time to time and of course it changes according to the époque, the age, and according to the society in which we live, but it is there, we see it all the time.

**(GU)** - I note from your various writings that various groups that you're looking at is the *sans papiers*, the stateless people which of course are very vulnerable because they don't have a citizenship to protect their rights - which is embedded in the state-centric international human rights framework, that somehow you need protection of a state - asylum seekers migrants, and you're also mentioning for example prisoners in secret detention centres and so on. So, a variety of groups, and I absolutely can see how the very right to be recognised as a subject of rights is in question, and it's a blemish, and it's something shocking and deeply disturbing. Nevertheless, if I think of my colleagues working in the international human rights framework - whether it's a Special Rapporteur on Torture criticising facilities in Guantanamo Bay, or whether it's many other, I mean, human rights advocates - their life campaign is about calling attention to the deficiency in the implementation, realisation of this universal ideal of human rights, and acting in very concrete ways of trying to, let's say, narrow or close that gap, if at all possible.

**(CD)** - You're right. Of course, I consider people like those who you've mentioned but even, more importantly, people and young people today in different social movements around the world who try to help those without citizenship, without recognition, without rights in order to have a basic dignity - and I know you want us to come back to that basic thing - I'm totally in favour of that. I mean, in the country I'm currently resident, in Greece, the treatment of refugees coming from Syria over the last five or six years has been totally - I think 'despicable' is a strong term - totally unacceptable, particularly over the last two years. However, lots and lots of young people have gone out and shown solidarity, and shown what it means really to be fighting for human rights, and the same over the pandemic, with the solidarity towards the more vulnerable and so on and so forth.

However, it seems to me - and that takes us to the key question that you pose - that the problem about this non recognition of rights for certain categories of people or situations it's not just a kind of incidental difficulty that you generally have between grand ideas and their application, their actual enforcement in practice. It is something deeper than that, which I would put it - for the purposes of our current point - in this way: the idea of a universal humanity that creates human rights - gives it to people and then people enjoy those rights - is logically, in a sense, unable to carry out this, because those universal human rights have to be delivered by the local policeman, the local government, the local judge or the local oligarch, who actually has the power to oppress and dominate people. In other words, while we have a universal and universalizable - in the Kantian terms - conception of morality, empirically that has to be delivered not by some universal humanity that does not exist, but by local authorities, by local governments, local laws, local administrators and policemen and judges. And that kind of logical relationship, contact between the universal and the empirical, means that in every instance where a particular society, a particular group, a particular ideology, excludes certain people from the position of the fullest human, the rights will be there as an ideal, but the reality will not be given to them and unfortunately we cannot overcome, we cannot transcend that position.

**(GU)** - So, just to maybe wrap up this initial part of the discussion, I would maybe say that from my point of view I would grant that, that the split cannot be entirely overcome, but I'm not sure I see that as an argument against the ideal of universal and universalizable human rights. I would say, we need both as an ideal to work towards, and as a critical standard to denounce blatant wrongs. So I take your point and your argument - and I think it's very



important for us - but I feel it's not really an argument against the international human rights framework so much as a reminder of never being complacent, so to say.

**(CD)** - I don't argue against that framework. I keep calling it 'a paradox', the paradox that on the one hand, creates that sense of ideal, of some kind of horizon that we're going towards, aspiring to it, but its reality can never match up. So, that is slightly different from being against it, it's telling people that: 'listen, this is not the last utopia, this is not the only ideology in town that we have sort of to march to its tune because there is nothing else. That is not going to make it. I'm not against, I could not be against, as I said, I was someone who benefited hugely from human rights, and that's why I've been an activist all my life. But I think there are certain exaggerations, a certain triumphalism in some of the human rights writers, which I think gives the wrong impression to people.

**(GU)** - Point well taken. I think it's also quite clear in your book that the insistence on correcting what you call 'triumphalism' is quite the dominant voice. So sometimes I feel a need to, let's say, also remember the need for this critical perspective that I believe still the human rights framework provides exactly in relation to some of the deficits that you're pointing out. I would like maybe to move us into the paradoxes, and maybe there are many steps in between, but one of the key themes I think also of your work is the way in which the human rights framework is, at best let's say, effectively compatible with the new liberalistic capitalist order and so it coexists, uncomfortably perhaps but nevertheless, with quite extreme global inequality and widening gaps between rich and poor, inclusion and exclusion. One might even want to go a step further and say that it's not just a matter of coexistence, there's even some form of collusion, that the way in which the subject is configured in the legal language is a precondition in some ways for maintaining the market economy. What would you say to that?

**(CD)** - I think this is perhaps the most important contemporary issue in question about the international human rights regime. Human rights obviously won, won after 1989, after the end of the Soviet Union because the second part of the Cold War had been presented as having human rights as a key kind of bone of contention between the Western, the so called 'Western part of the world', and Eastern part and so on; so they won. Then we have a period of some 30 years in which three other aspects of international and domestic life coincided with this victory of human rights. First, what economists call 'neoliberalism': the idea that the market is the best, indeed the only proper principle of distribution and the market principle should be introduced in all aspects of social life, not just in terms of financial markets. Secondly, we had what sociologists call 'globalization' - and we all understand that - and then political theorists also spoke about something they call 'the post democratic condition', meaning that somehow, because social issues and social problems and questions are extremely difficult and technical, they should not end in the political discourse, political conflict and compromises, but they should be given to experts, technicians who will give answers to them.

So these three things, these three tendencies, extremely important that have very much changed the way we live - if we go back to 30/40 years - how do they coincide with human rights? And this question has been posed by many - I think academics, intellectuals, writers, commentators: is this tradition of human rights just coinciding with this development, or is it part of this new configuration of world and domestic life? Or to put it differently: is political liberalism, which is a hugely proud tradition - it's a tradition of the rights of man, the natural

rights, of human rights, civil and political liberties, democratic freedom - is that kind of liberalism and the economic liberalism that has imposed austerity policies to Italy, to Greece, to Portugal, to the South of Europe, and, of course, all over the world with the so called Washington Consensus? Are these two things the same, are they linked? No, they're not the same, I mean, obviously, they deal with different parts of life. Are they the same? Are they linked?

Now, of course, the initial impetus of natural rights and of human rights was the promotion of individual freedom against the state, against state interference; individuals suffering from state oppression, from public power oppression are the privileged, and quite rightly so, the privileged group and civil and political liberties the main tool of protection. However, when we move to the part of life which for most people in the world, and particularly the global South, is much more important - which is material prosperity and a global view of what it means to have a good life - there, human rights have not played their role. And if anything, in those neoliberal austerity policies that accompanied that period of human rights victory, human rights acceptance, one could say that they had - at least in terms of a chronological coincidence, but perhaps also in terms of a certain causal connection - they have not had a positive effect.

**(GU)** - I take your point, it's an argument that is increasingly being made. We confronted a similar one, in some ways, in a discussion with Samuel Moyn recently and he was even going a step further, criticising the economic, social and cultural rights framework as 'not enough' as the title of one of his recent publications. I would, again, like to challenge that interpretation a bit. I'll point to two considerations. One is that, I see also in your work, one can say it's - I don't want to say you're necessarily completely reviving or repeating the Marxian critique of the legacy of the French Revolution - but there's an element of that, seeing the individual underlying, the man of the rights of man, or the human in the human rights framework, as someone who is atomized, individualised, self-centred and fundamentally egotistical in a certain way, so not social, not a member of a political community in an effective way. I feel that this is, in many ways, not doing justice to the implicit ethos of human rights, as you were saying yourself, most of the human rights as they exist today, are in many ways a legacy of struggle, of people claiming rights.

This, I think, is true, both of civil political rights and economic, social and cultural rights; the economic, social and cultural rights are the legacy of social movements, claiming some degree of minimum protections by society, decent working conditions, and so on and so forth. I think to reduce this whole framework to a kind of self-centred individual agent of the market is not doing full justice to the framework. I think similarly, the implicit ethos of human rights, in many ways, does reflect an element of social commitment, solidarity, wanting to empower people to take charge of their own destinies, which could also be a way of approaching the idea of the good life, that it's not just a matter of passively enjoying material goods, it's a matter of being an agent in one's own sphere of action and architect of one's own destiny. And I think if you look at the whole catalogue of international human rights in all aspects, they are about empowering individuals to be active in the context they inhabit. I see that as much more, so to say, than the sort of counterpart to neoliberalistic unequal capitalist economy.

**(CD)** - Yes, I take the criticism. I think this is an extremely important issue in terms of how we move forward at this particular point in our history. But it seems to me that this kind of critique, the critique that myself and Sam Moyn - of course I would never agree with Sam that

human rights is the last utopia, it is precisely not the last utopia, it is not a utopia, utopia is something which is not yet, which is something to be achieved, which is something that goes into the idea of a good life, a full, a fulfilled, completed life, but that is a different question - so it is important. Now, is particularly that kind of egotistical individualism part of a certain conception, a dominant conception of human rights today? I'm saying that it is. It was, of course, back in the 18th century, it was in the 19th century, when those kinds of individual political and civil freedoms, democratic freedoms did not exist; at that point, what you call the ability to act as Michel Villey, the great legal historian, put it *un pouvoir d'agir*, to act, to make decisions, to be in the world - all that was absolutely crucial and it is very much part of our modernity, this is modernity, there's no doubt about that. But once we move into the contemporary situation of the last 30 or 40 years when human rights became the official ideology, then at that same period, market capitalism, a kind of aggressive looking towards my own interest and not caring very much about others, became at the same time extremely central.

If you look around the world, take the work of the great Indian theorist Upendra Baxi: he shows how property and trade-related rights provide a set of moral values and legal institutions which are necessary for economic globalisation. You take an excellent work on the morals of human rights recently published, which says that somehow human rights have become the moral component or the moral justification of the world dispensation. Of course, if you look at the recent wars, all the recent wars, even Putin, the model Putin is using, a kind of human rights tradition claiming that he went to Ukraine because the Russian speakers were being murdered, there were threats against them and so on. But at every recent war, all they way to, of course, Syria, it was there supposedly to protect human rights.

So, that is one side of the problem with international human rights; the other side is that, unfortunately - as I tell my students in London but also in Greece - we have any number of human rights, from the Universal Declaration to all kinds of treaties and conventions, ILO treaties and so on, claiming that we have a right to work. Then I turn around and I say, what could I say - as a human rights expert and campaigner - to the 40% of the young people in Greece, or the 20% in Britain that do not have any work? So, unless the human rights tradition adopts a serious attitude, and of course the law more generally, towards the protection of those social and economic rights, things like the right to work, but also the right to health - we saw the huge difference between people in the advanced Western world and the Third World over the pandemic, we saw the vaccination nationalism, we saw the fact that while widely in Western Europe, up to 70% of people are fully vaccinated, in some parts of Africa we go back to 5% - this is a totally unjust world. If human rights is not prepared to own up to that and see how they can help it, then it seems to me it loses to a certain extent its *raison d'être*.

**(GU)** - But at the same time you have, for example, speaking of the right to health now, one of the recent UN Special Rapporteur on the Right to Health, Anand Grover, who was devoting his entire mandate to identifying and criticising exactly this point, from the perspective of Article 12 of the Covenant on Economic, Social and Cultural Rights. So it's to say, the sort of oscillation between seeing the rights framework as a critical resource and as a sort of complacent justification, is not that clear-cut, I think, in fact.

**(CD)** - I agree when you're saying that, but let me say just one sentence, which is more general about law, not as rights, but also rights as legal rights: there is always a difference



between the normative world, you could call it 'of rights and laws and treaties and conventions' and so on, and the empirical world where you and I live. There is a difference there. There is a little gap again, between what all these documents and texts and norms come together, according to Kelsen, of course it is all very coherent internally, connected, one thing leads to another in a logical argumentative sense and so on. Then, of course, we have another world, which is the real world, in which we live, and there is no link between the two. So, of course, it is important, and it is a critical resource, as you say, to have committees and reports and indeed rights themselves. But that says quite little, if not nothing, but little about what it means for people in the real world.

**(GU)** - So I take your point, I don't know if this properly summarizes it, because I see somewhere repeatedly, in fact, in your work you talk about the risk of rights becoming, like you were also saying, expert culture, becoming a technical framework that in fact depoliticises politics in a sense, and what I'm arguing, I suppose, is to try to take rights seriously, as a resource to overcome injustices within the political sphere, which means in a certain sense repoliticising rights and recapturing part of the main struggle dimension that people like Christoph Heynes and Baxi as well and many others have very strongly, accentuated in their interpretation and in their work. I don't know if that's a fair way, but I see the same, in fact, in relation to the moral dimension of rights. We were talking about the agency aspect that, and as you know, I like very much the Martha Nussbaum's emphasis on linking rights with expanding human capabilities, which I see as a resource for becoming politically active in a sense, so there's an interpretation that I think, is not entirely contrary to your understanding as well, but just accentuating from a little bit opposite point of view.

**(CD)** - Not at all, it is actually the work of Nussbaum and Amartya Sen, the capabilities sort of tender, in a sense, is presented as an alternative to the idea of well being based just to rights and it is a totally different one. And of course, in my kind of vocabulary, 'capabilities' would also be linked with needs, you know, with human needs, and with both the body and the soul, both parts of a human being, a part of it. But you did say something for me absolutely central, repoliticising of politics: this is absolutely a key, it seems to me, the key object, aspiration for all of us who work either as campaigners in movements, or as writers and thinkers with human rights and the right to resistance is absolutely right at the heart of it. Resistance for me, is a key characteristic of what it means to be human.

I mean, the two major Genesis kind of stories, Adam and Eve, and of course Prometheus in the Greek tradition, created humanity by defying the orders and the commands of the gods, of the higher authority, and so on and so forth. And everything we have today, every right, every facility, everything that we're proud of in our tradition is very much the result of struggle. And to that extent, when law and philosophy and the dominant part of the world tried repeatedly, and even today, to delete resistance from the annals of law, the annals of human rights and so on, it was playing a losing game because - irrespective of what the law says against disobedience, against resistance, even against revolution - they will always come back, like the repressed: you may ban it, you may punish people who are carrying them out, but it will come back. Ukraine is a very good example. I can give you a million examples, but I'm sure you know them yourself.

That idea, that sort of human characteristic to resist power - whether it is public or private - and to put forward an idea of the well being of a human that cannot be kept down, cannot be dismissed for too long - that is, for me, a key aspect of the human rights tradition. If it gets

lost, and it does get lost from time to time, then of course, you know, the end of human rights, the purpose of human rights comes to an end, that is a key thing that I keep arguing, and I think we live it quite obviously, both in its positive, in its dynamic, energetic, acting, agentic way, but also in the passive, negative way in which the powers that be want of course, to keep people out, to keep people away from the ability to defend themselves, and therefore they criminalise resistance, they criminalise dissent, they criminalise protests, as it happened quite extensively, as you know, during the pandemic where not only public protest was banned in many places on the grounds of public health reasons, but they also moved at the metalevel in France, in the United Kingdom, in Greece and they also started banning protests altogether or imposing almost impossible conditions. But the human spirit will come through and to my mind there is no stronger, I think, expression of the human spirit than the right of resistance. If human rights protect, promote, give, as you said, tools, critical resources for that resistance, then they are doing their job properly.

**(GU)** - I don't disagree, in fact, and I'm very happy you made that connection, because that was exactly the last point I wanted us to address. And I very much like your sort of semi Freudian invocation of the repressed returning, and you could even say, I mean with Freud as well, 'what is not remembered, will be repeated'. And I think the remembrance of the legacy of resistance, which I think is a core aspect of what has created and defined the human rights framework, has to be kept vibrant and alive or else things will explode in our faces, so to say. So in that sense, I think we're very much on the same page.

I would maybe want to interject that there's another question which is the issue of the degree to which struggle and resistance is bound to be human rights compliant, which is in and of itself a difficult requirement, because it's sometimes experienced as delegitimizing struggle. That's something we have to be very aware of and very careful about and at the same time to legitimize violation and abuse in the name of resistance is also problematic. So I see this as another field of tension that requires very alert consideration and reflection.

**(CD)** - Yes, I take your point. But I should also say that all revolutions in history and all radical change in history, started by being seen as criminal, as being totally wrong, and when it was happening it was being suppressed, and sort of the full power of the law was brought upon it. But once victorious, in few occasions in which revolutions won, then of course, that whole history changed, the terrorist became a freedom fighter - remember Mandela - and that kind of event that was seen as totally unacceptable, as indeed sort of sinful at the time it was happening, then is led back anachronistically as part of a long historical tradition that was inevitably leading to its occurrence. And that is a key thing about the point you're making about legitimization and delegitimation.

In a sense, the human rights tradition and the law, legitimized certain things, delegitimized others, but the force of history, the force of the event, if we want to call it that, is something that keeps that idea of resistance on the road. So even if human rights is at one level, about courts and lawyers, and legal texts and international law and treaties and so on, on the other hand, it is also part of the traditional, I would call it 'the right of the streets, the rights of the dissident, the rights of the person who has been oppressed or who has been dominated or exploited'. And for those people, rights do not mean 'courts and judges and so on', but when they go out, and they say: 'I want the right to this, I want the right to that' - which is given in international law, international treaties, or in my sense of morality and conscience and so on -

when they say that, they're also part of the human rights tradition, as any rapporteur of international law and human rights judge.

**(GU)** - Thank you. I think that's absolutely taken on board and agreed, I think we should wrap up now. And I think the discussion at least is a very strong reminder for me of how valuable your work is, because it really challenges us, challenges someone like me and my students to examine our own ideas in a critical perspective and to become at least more articulate and I think that's a hugely valuable contribution you're making to both education and philosophy and I appreciate that very much. And I would love to continue these discussions and I'm sure we'll have occasion to do that as well. I'd like to just wrap up by, on behalf of the Global Campus of Human Rights, thanking you so much for joining the podcast and to also thank all the listeners of the podcast for engaging with us. This is the end of the current podcast series. We are grateful to all of you listeners who have joined us and engaged together with us. And I'm very grateful to my colleagues who have helped the Global Campus branch into this new medium of podcast and especially the Director of the Global Campus E-Learning Department, Angela Melchiorre. So please stay tuned and there will be more interesting and challenging podcasts to come from our side.