



Nordic Summer University



European Humanities
University

Study Circle 5: Patterns of Dysfunction in Contemporary Democracies Impact on Human Rights and Governance Joint Venture Between NSU and EHU.

February 2-4 2018, Copenhagen

**Kindly hosted by Copenhagen
University, Department of Nordic
Studies and Linguistics**

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Program for the Winter Session – Special Focus: Populism and Democracy

Friday the 2nd of February	
15.00-15.45	Jean-Pierre Cléro, Professor, University of Rouen, France <i>What generations owe to other generations in a democracy and in particular the obligations of younger generations to older generations and the astonishing lack of foresight in the area</i> Chair: Oleg Bresky
15.45-16.30	Poul Lübcke, Associate Professor, Copenhagen University <i>The Ideal of Democracy and its Normative Limitations</i> Chair: Oleg Bresky
16.30-16.45	Pause
16.45-17.30	Agnieszka Kuriata, Ph.D. Student, University of Wroclaw, Poland <i>Where democracy is not working in a proper way, there rights of women are respected less” - are these Shirin Ebadi words still valid?</i> Chair: Oleg Bresky
17.30-18.15	Katarzyna Sadowa, Ph.D. Student, University of Wroclaw, Poland <i>Democracy and multiculturalism - influence of the Muslim values</i>

	Chair: Oleg Bresky
20.00	Dinner (with the other circles)
Saturday the 3rd of February	
09.00-9.45	Yves Charles Zarka, Professor, University of Sorbonne, Paris 5: <i>Who are the People in Populism?</i> Chair: Mogens Chrom Jacobsen
9.45-10.30	Discussion Chair: Mogens Chrom Jacobsen
10.30-10.45	Pause
10.45-11.30	Magdalena Tabernacka, Associate Professor, University of Wroclaw <i>Modern populist propaganda. Xenophobic narration of securing one's interests.</i> Chair: Mogens Chrom Jacobsen
11.30-12.15	Sten Schaumburg-Müller, Professor, University of Southern Denmark <i>Digital media. A menace to democracy?</i> Chair: Mogens Chrom Jacobsen
12.15-13.30	Lunch (with the other circles)
13.30-14.15	Lars Erslev Andersen, Senior Research Fellow, DISS, Copenhagen, Denmark <i>Reflections on the inverse function of globalization and democracy</i> Chair: Natallia Ahafonava
14.15-15.00	Eyassu Gayim, Associate Professor, Global Studies, Gothenburg, Sweden <i>Dysfunctional Democracies, Empowerment and the Human Rights Based Approach</i> Chair: Natallia Ahafonava
15.00-15.15	Pause
15.15-16.00	Hellen Parra-Flórez, Ph.D. Student, University of Manchester <i>Are democratic institutions no longer able to decide about the kind of society which should be instituted? How should we cope with this in terms of justice? The Cultural Defence and its Impact on a Democratic Society</i> Chair: Natallia Ahafonava
16.00-16.45	Barbara Gornik, University of Primorska, Slovenia <i>The razor-wire fence on Slovenian southern border: new methods in human rights protection</i> Chair: Natallia Ahafonava
16.45-17.30	Pause
17.30-18.15	Natallia Ahafonava, Senior Research Fellow, Belarusian Academy of Science & Alexander Vashkevich, Professor, EHU Vilnius, Lithuania & Former Justice of the Constitutional Court of Belarus <i>Foreign funding of the Non-Governmental Organisations: international legal standards and practice: case of Belarus</i> Chair: Poul Lübcke
18.15-19.00	Barbara Jelonek, Ph.D. Student, University of Wroclaw, Poland <i>Rule of law and human rights in Japan and Poland</i> Chair: Poul Lübcke
20.00	Festive Dinner
Sunday the 4th of February	
09.00-09.45	Oleg Bresky, Professor, EHU, Vilnius, Lithuania <i>The human and representation in the contemporary democracy</i> Chair: Barbara Gornik
09.45-10.30	Asger Sørensen, Associate Professor, Aarhus University <i>Alienation. A Challenge for Citizenship Education</i> Chair: Barbara Gornik
10.30-10.45	Pause
10.45-11.30	Mariana Barchuk, Associate Professor, Precarpathian National University, Ukraine <i>The Democratic Deficit between International Law and Implementation in the Human Security sphere</i> Chair: Barbara Gornik
11.30-12.15	Aleksandra Spychalska, Ph.D. Student, University of Wroclaw, Poland: TBA Chair: Barbara Gornik

12.15-13.30	Lunch (with the other circles)
13.30-14.15	Katsiaryna Beliakova, Associate Professor, Vitebsk State University, Belarus <i>Free Legal Aid for Refugees And Migrants in Europe</i> Chair: Lars Erslev Andersen
14.15-15.00	Lucas Miranda, Research Fellow, Migration Institute of Finland <i>Nationality Deprivation as an Exercise of State Power: The Legal Implications of Nationality Deprivation of Foreign Fighters under International Human Rights Law</i> Chair: Lars Erslev Andersen

We also welcome the following participants:			
Michał Stambulski	Executive Director	Centre for Legal Education and Social Theory, University of Wrocław	Poland
Filip Cyuńczyk	Associated researcher	Center for Legal Education and Social Theory, University of Wrocław	Poland
Abel Polese	Senior Research Fellow	Tallinn University	Estonia
Samuel Martires	Judge	Supreme Court of the Philippines	The Philippines
Ivan Halyk	Research Fellow	University of Maria Curie-Skłodowska	Ukraine
Mogens Chrom Jacobsen	Independent Scholar		Denmark
Lars Ylander	Independent Scholar		Denmark

Abstracts

Magdalena Tabernacka, Associate Professor, University of Wrocław, Poland.

Modern populist propaganda. Xenophobic narration of securing one's interests.

The narrative conducted in the public sphere by populist groups depends on whether they are in power or not. Still, in both situations they want to inspire fear and draw public attention to the "sources" of this fear.

When the populists are only striving for power, they present themselves as those who are aware of threats that no one else can see. When they already hold power, they present themselves as the defenders of a fortress under siege. They claim they want to defend the status quo – the fortress – or, how they tend to call it, its endangered remnants. Their narrative is conducted in such a way that the society saw them as "saviors" from outside threats to the "nation", "the community" or any other group, but always distinguished on the basis of contempt for "others." Security is the main argument here.

My presentation will focus on the latter case and its implications for the rise of populist and xenophobic attitudes in the Polish society, and then the consequences of such attitudes for this society. The analysis of the principal arguments of propaganda works as a kind of mirror that allows to identify the areas of uncertainty in a given society, but it should also be remembered that, given the current level of knowledge about the socio-technical means of influencing peoples' attitudes, propaganda is a powerful tool for attitude creation. By discussing the means of communication used by the Polish government and its supporting circles for their propaganda, I will illustrate the main directions of change in the way the society thinks, taking into account the research I carried out.

Sten Schaumburg-Müller, Professor, Department of Law, University of Southern Denmark

Digital media. A menace to democracy?

In the paper, I will argue that digital media, and especially the social media, are menacing democracy. Daniel Kahnemann (Thinking fast and slow, Farrar, Straus and Giroux, 2011) has shown that human beings have a capacity for fast thinking, which is often erring exactly because it is fast and unreflected. This mode of thinking is helpful when we consider whether to save a child from drowning – here, slow thinking may be fatal – but it is often highly unreliable when making all sorts of evaluations. As social media are inciting users exactly to make fast and unreflected evaluations (by 'likes' and by quick sharing), it may undermine the slow mode thinking which, I contend, is necessary for a competent citizen in a democratic society. The Danish philosopher Vincent Hendricks is presently heading a center for bubble studies and in his Infostorms. How to Take Information Punches and Save Democracy (with Palle G. Hansen, Springer 2014), he is exactly pointing to the problems and dangers of quick reaction (fast thinking in Kahnemann terms), which are free and therefore in a way irresponsible – you may like whatever with no repercussions for yourself – and how reactions have a tendency to "bubble", i.e. a kind of human lemming effect, a mass of people going in the same direction without any further reflection. It may be fatal both to democracy and to rule of law when important decisions are made by lemming-like social media participants rather than reflected, independent citizens. The Danish philosopher K.E. Løgstrup has made a beautiful piece, "Selvstændighed og autoritet", [Independence and authority] (K.E. Løgstrup, System og symbol. Essays, Gyldendal, 1982, pp 69f.) in which he argues that in order to be independent, we need to respect authorities, 'authorities' here indicating a person who is superior in "vision, sense of propriety, judgment, knowledge and insight" (my translation), his point being that if we do not accept this kind of authority – note that the 'authorization' is an evaluation made at least partly by each person, not taken from a list of preset authorities – we get lost in self-overestimation and thereby in fact lose our independence, which again, of course, is a prerequisite for a well-functioning democracy. And it seems exactly as if the internet is furthering a 'no authority' approach. In addition, I contend, protection of private life in the broad sense is also a prerequisite for democracy ("Borgerlig privathed i en digitaliseret verden", [Private life in a digitalized world], Retfærd, 2016, no. 1, pp. 19-37), and digitalization is exactly threatening private life by rendering it possible to quickly, wide spread and seemingly irreversibly disseminate all sorts of (true or false) private life info and by enabling private companies as well as states to gather huge amounts of (true or false) information of each and every person, reducing the (potentially) competent citizen to a manipulatable object. However, the public sphere has never been ideal (Jürgen Habermas, Strukturwandel der Öffentlichkeit, Hermann

Luchterhand 1962). There have always been threats, and changes in the structure of public sphere have always solved some problems and created new ones. The digitalization of media, including the advent of social media, has improved access to information immensely. But it also carries huge problems in terms of concentration of power, legitimization problems for legal and political decisions, it is a menace to private life and to democracy.

Hellen Parra Flórez, Ph.D student, The University of Manchester

Are democratic institutions no longer able to decide about the kind of society which should be instituted? How should we cope with this in terms of justice? The Cultural Defence and its Impact on a Democratic Society.

Purpose: The cultural defence is a legal strategy, which is a product of multiculturalism and a by-product of globalisation. This strategy seeks to mitigate punishment on the grounds of cultural difference. This paper aims to illustrate the possible impact of this strategy on both the legal system and the democratic society.

Approach: It will explore the arguments in favour of the cultural defence and how it has played out in practice within the Anglo-American legal systems. It will then consider the potential impact of the cultural defence on British society by referring to the doctrine of legal pluralism.

Findings: If the cultural defence becomes a valid legal strategy, this could give place to a novel form of legal pluralism expressed within the legal system. This, in turn, would impact the democratic order by diminishing the principle of equality before the law and social cohesion, a basis for a stable democracy.

Originality/value: So far, the discussion around the strategy of the cultural defence has focused on arguments for and against implementation based on feminist theory, the principle of individualised justice, multiculturalism and legal principles such as ignorance of the law, among others. This paper explores the overlooked issue which is the impact that this legal strategy may have on the overall nature of the legal system as well as on society.

Mariana Barchuk, Precarpathian National University named after Vasyl Stefanyk, city of Ivano-Frankivsk, Ukraine

The Democratic Deficit between International Law and Implementation in the Human Security sphere. The system of international relations is based on the principle of international law and democracy and the fundamental document United Nations Charter. However, this document, is also known as “the constitution of nations”, appeared when the world had not such threats as in modern times. The present day world threats, such as aggravation of armed conflicts and terrorism, pose a new challenge to the world community – together with armed conflicts, terrorism, organized crimes, violation of human rights, humanitarian catastrophes etc. Human security relies on countries’ obligations and human rights recorded in international documents. One of the greatest challenges is the discrepancy between declarative laws and the “real politics” of countries, between the propaganda of democratic principles in the international order and the basic problems with their implementation. The discrepancy between the informational and legal space and the conditions of real policy provokes the dysfunction of democracy, indicating its deficit in practice at the macro level. Human security and its deficit is a good illustration of the difference between declarations and real policy of countries when there are no conditions for the implementation of legal norms. It handicaps solving problems in the field of human security, in particular international and internal armed conflicts. The research is dedicated to questions of human security as an example of the democratic deficit between law and implementation in country practices.

Jean-Pierre Cléro, Professor, University of Rouen, France

What generations ought to other generations in a democracy. Or, perhaps, more precisely: What younger generations ought to elder generations in a democracy: an incredible lack of foresight.

Lars Erslev Andersen, Senior Research Fellow, DISS, Copenhagen, Denmark

Reflections on the inverse function of globalization and democracy

Agnieszka Kuriata, Ph.D. student, University of Wrocław

Where democracy is not working in a proper way, there rights of women are respected less” - are these Shirin Ebadi words still valid?

Nowadays, it is noticed that the revolutions in Muslim countries have initiated unfavorable changes for women. With the Islamists taking over, their position has deteriorated sharply. It is emphasized that this is because Islam stands in direct contradiction with democracy. Starting with the Islamic Revolution in Iran, through the "Arab Spring" in North Africa, there are many similarities, leading to the conclusion that new, apparently democratic governments have reduced the role of women and their rights.

Barbara Jelonek, Ph.D. student, University of Wrocław

Rule of law and human rights in Japan and Poland.

In my presentation I would like to present human rights and its dysfunctions in Japan and Poland - On the example of women's rights in the workplace and family.

Katsiaryna Beliakova, Associate Professor at History and Theory of Law Chair, Vitebsk State University, Belarus

Free Legal Aid for Refugees And Migrants in Europe.

Access to free legal aid in modern societies is a very important marker of democratic regimes nowadays. It is essential for socially vulnerable groups, especially for migrants. The aim of the presentation is to define modern approaches to this problem in Western and Eastern European countries on the basis of comparative legal analysis.

Eyassu Gayim, Associate Professor, Global Studies, University of Gothenburg, Sweden.

Dysfunctional Democracies, Empowerment and the Human Rights Based Approach

The widespread endorsement of the values of democracy and human rights is surely one of the most significant and gratifying political achievements of the post-World War II era. The first major bold step to this end was taken in 1948 when the United Nations adopted the Universal Declaration of Human Rights. This Declaration not only proclaimed the human rights and freedoms that should be promoted to protect the welfare and interests of the members of our national communities, it even considered ‘the will of the people’ as the basis for the legitimacy of governments. How this ‘will of the people’ correlates to the acknowledged rights was left open. This was understandable because respect for state sovereignty is an important principle of international law. However, the more the international regime of human rights developed, the more state sovereignty started to be challenged, since the ratified conventions should be respected as required by the principle of good faith fulfilment of treaty obligations. By the end of the Cold War, the relationship between democracy and human rights was made clear and simple. “Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives”, stated operative paragraph 8 of the 1993 Vienna Declaration and Programme of Action, and that it should recognize “the promotion and protection of human rights and fundamental freedoms.” More importantly, the international community started to encourage the use of the Human Rights Based Approach by the end of the 1990s to assess how states, economic actors and others conducts themselves on issues that have human rights implications. This is a welcome approach for the development of human rights. The spreading patterns of sham or dysfunctional democracies, whose slogans even included undermining human rights, in one form or another, has now brought the correlation between democracy and human rights at center-stage. Can democracy and disregard for human rights co-exist? Is democracy a myth, anyway? Are there lessons to be learnt from the past? Are we questioning democracy now using the human rights lenses? What are the best ways of ensuring democracy by respecting human rights? This contribution will cast light on these questions.

Katarzyna Sadowa, Ph.D. student, University of Wrocław

Democracy and multiculturalism - influence of the Muslim values

In the presentation author will analyze the influence of the muticultural policy on the European democracies. Author will focus

especially on the influence of some particular Muslim values on the European legal order, on the examples of the situation in the Great Britain and Germany.

Lucas Miranda, Research Fellow, Migration Institute of Finland

Nationality Deprivation as an Exercise of State Power: The Legal Implications of Nationality Deprivation of Foreign Fighters under International Human Rights Law

Nationality plays one of the most fundamental roles in citizens' lives, which usually defines their relationship with their countries under nationality law. This law features a set of rules stipulating the grounds upon which nationals can acquire, lose or be deprived of that nationality. Nationals, on the other hand, owe their States allegiance and are under criminal or administrative punishment once they threaten one of the foundational principles of their countries. As the rise of terrorist organization and individuals joining them in past few years, the UN and member States have revived nationality law as a security and counterterrorism tool against those who threaten the interests of their States.

This comprehensive investigation analyzes depriving terrorists of their citizenship and plays a role to understand this practice with the human right to nationality. It looks at the issue from the perspective of the protection standards that exist in this field of law to unveil the legal implications of deprivation practices under international human rights law. It evaluates multiple tasks concentrating on recent changes in nationality law in response to rising threats to national security in recent years that is associated with foreign fighters. It's main focus is on deprivation of nationality resulting in certain human rights violations at the international level, but this is set within the context of developments at national level. Not only deprivation of nationality but proposals for new measures aiming to suppress foreign fighters, such as imposing travel bans, are considered in the context of this study. This study attempts to answer how international human rights standards which today limit States' freedom to regulate nationality deprivation by presenting a number of challenges for States which seek to add this policy tool to their arsenal against foreign fighters for their terrorist activities. This study illustrates the legal implications of this practice against foreign fighters who have usually single and/ or dual nationalities. This is achieved by testing the essential human rights principles, including avoidance of Statelessness, non-arbitrariness, non-discrimination, and proportionality and the right to respect for private and family life. Analyzing these challenges helps to understand the distinctions between the way in which the international human rights law treats an individual with sole nationality and an individual with multiple nationalities and how it protects the nationality rights of close family members of foreign fighters.

The premise for this study is that matters of nationality fall within the domestic jurisdiction of states and its regulation on the international level reflects the interests of states. The study claims that the wording of the relevant international legal documents on nationality is typically vague and lacking in order to enable states to retain the regulation of nationality as far as possible within their respective domestic spheres. This study argues also that in the case of a foreign fighter with a sole nationality, a state may revoke his / her nationality and render him / her stateless only if an existing exception to the 1961 Convention has been met. However, he / she must have an access to contest the revocation decision before an independent tribunal. In the case of family members with a foreign fighters such as children and spouse, international law likely prohibits a revocation of these persons' nationality unless there is an independent basis for revocation. Revocation of nationality, in this regard is a strictly individualized measure. This is my thesis's abstract I completed during the beginning of 2017, the intention is to develop the topic so that it could be PhD research topic. Ideas and thoughts are many, but to mention the most potential ones only: The role played by deprivation of citizenship: preventive or punitive? And more from a policy perspective, what aim is to be achieved with such deprivations and is the measure taken (deprivation of citizenship) conducive to this aim? The way deprivation of citizenship and the various grounds that can be relied upon for such deprivation conceptualizes citizenship. The way deprivation of citizenship could have a differentiated impact on different communities, even when formulated in a neutral way. How does deprivation of citizenship interact with other policy frameworks, e.g. the supposed failure of multiculturalism etc.?

Barbara Gornik

The razor-wire fence on Slovenian southern border: new methods in human rights protection

During the Second World War between February 1942 and May 1945, Ljubljana, the capital of Slovenia has been surrounded by razor-wire fence delineating it from its outskirts. In the light of brutal warfare, political takeover and suppression the razor-wire fence has stood as symbol of freedom restriction, human captivity and violation of human rights. Seventy years later, Slovenian prime minister Miro Cerar instigated a redefinition of that symbolism by placing razor-wire fence on the country's southern border as a response to high number of refugees crossing Slovenia on the so called Balkan route. The paper discusses the shift identified in the interpretation of the razor-wire fence in Slovenian context and reflects on how, ironically, extreme right-wing exclusionary policies attain legitimacy in the political system by incorporating civic values, protection of human rights and democracy into their justification. On the other hand, by situating the Slovenian razor-wire fence within wider historical and conceptual views found in the Oliver Razac's "Barbed Wire: A Political History", the paper also considers the political implications of barbed wire's use in governing populations.

Asger Sørensen, Associate Professor, Aarhus University
Alienation. A Challenge for Citizenship Education

Alexander

Poul Lübcke, Associate Professor, Copenhagen University
The Ideal of Democracy and its Normative Limitations

In my presentation I will (1) propose a concept of democracy, which makes it possible to speak in a sensible way about "more" or "less" democracy, and thereafter I will (2) argue that we have good reasons to limit democracy – both if we consider other more basic human rights, and if we take specific historical conditions into account. It will both be argued that total democracy never ought to be an ideal, and that most of the existing countries in the present world only ought to consider even the ideal limited democracy as a regulative and not a constitutive ideal until these countries have developed other basic institutions.