

# **The European Human Rights Regime**

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This course is an introduction to the human rights policies and politics within Europe. Europe has the most developed and elaborated regional human rights system and regime in the world. Attention will be given to intergovernmental organizations and actors involved in Europe, including the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe (CoE), the European Court for Human Rights (ECHR) and the European Union (EU) as well as non-governmental entities, such as Amnesty International and Human Rights Watch.

We will consider case studies of the mechanisms of the European human rights regime, its norms and systems for setting standards, monitoring and promoting human rights among the more than 40 countries. The course includes an in-depth analysis of the genesis and history of human rights in Europe; developments since 1945; the legal frameworks; decision-making bodies and procedures; and public awareness campaigns that have helped to create an extensive human rights monitoring system and a culture of human rights in Europe.

*(This course has been taught by A. Mihr in similar versions at Humboldt University Berlin, Germany and Columbia University New York, USA, Summer Session and at the European Inter-University Center in Venice, Italy, in 2005 and 2006)*

## **Course Requirement**

Each student is required to complete and present a paper, 15-20 pages in length, which can be on topics and issues such as institutional perspectives on human rights in Europe, political debates and/or particular case studies of different countries. The paper can be either a comparative or case study of a topic that has been approved by the instructor. Students can also write reports based on the readings specified within the theoretical framework.

## **Grading**

Grading will be based on participation in class (25%) and on the 15-20-page paper (75%)

## Syllabus

### 1<sup>st</sup> session

#### **The History and Genesis of Human Rights in Europe after 1945**

After World War II in 1945 the European states established the Council of Europe in 1949, the European Community in 1957 and set up the Conference on Security and Cooperation in 1974 in order to bridge the tensions between East and West-Europe and the Cold War. The genesis of these developments led in establishing strong European inter-governmental organizations. One of their focuses is to monitor and promote international human rights standards. The history of these institutions, till the end of the cold war in 1989/1990, and their extension thereafter explain why Europe is the most elaborated but also complex human rights regime in the world today. Its institutions vary greatly in their competences, power and resources and are in the process of further changes and adaption to current human rights challenges and demands.

#### **Readings**

Donnelly, Jack, 1998, *International Human Rights*, 2<sup>nd</sup> ed, Westview Press, p.3-17.  
Judt, Tony, 2005, *Postwar, A History of Europe since 1945*, Penguin Books, p.701-748.  
Williams, Shirley, 2000, *Human Rights in Europe*, in: Power, Samantha/ Allison, Graham (Eds.) *Realizing human Rights, Moving from Inspiration to Impact*, St. Martins Press, New York, p. 77-109.

### 2<sup>nd</sup> session

#### **Introduction to the European Human Rights Regime**

We will start with an introduction of the development of the European institutions and organizations and its mechanism. The different institutions, mechanism, procedures and implementation systems are called “regime” which become the European Human Rights Regime. The European Human Rights Regime differs from the International Human Rights Regime, which is dominated by the UN. Therefore, a brief comparison of what makes the European Regime different from other regional but also UN Human Rights Regime will be given. This will led to the discussion on why and how the European Human Rights Regime is considered the strongest and most effective in the contemporary world?

#### **Readings**

Donnelly, Jack, 1998, *International Human Rights*, 2<sup>nd</sup> ed, Westview Press, p.149-163.  
Donnelly, Jack. 2003(2nd) *Universal Human Rights in Theory and Practise*. Cornell University Press, p.127-154.  
Krasner, Stephen (Ed.) 1995. *International Regimes*. Cornell University Press, p.1-22.  
Moravicsk, Andrew, 2000, *The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe*, in: *International Organizations*, MIT, 54, 1, p.217-252

### 3<sup>rd</sup> session

#### **European Intergovernmental Organizations (IGOs)**

European Intergovernmental Organizations (IGOs) such as the Organization for Security and Cooperation (OSCE), the Council of Europe (CoE) and the European Union (EU) are considered to be the organizational fundamentals of the European Human Rights Regime. They differ greatly in their human rights implementation processes, monitoring mechanisms and strength. Each of these IGOs cover a different range of European countries, have different regulations, principles, conventions, committees and mechanisms that are used in different ways by governments and lobbyist likewise, to implement and monitor human rights.

#### **Readings**

Buergethal, Thomas/ Shelton, Dinah/ Steward, David, 2002(3<sup>rd</sup>), *Human Rights in a Nutshell*, West Group, Chapt. 3.

### 4<sup>th</sup> Session

#### **Organization for Security and Cooperation in Europe (OSCE): Institutions and Function**

The OSCE is the biggest European Intergovernmental Organization. It covers more than 50 member states in Europe and Central Asia. It was created to replace the former CSCE (Conference for Security and Cooperation in Europe), which was an important political institution in Eastern and Western Europe during the Cold War till 1990. Since 1992, the OSCE has mainly served as a political and not legal binding monitoring body, which is considered to be a “weak” part of the European Human Rights Regime. However, its weakness is at the same time its strength, since the OSCE takes up monitoring functions and has easy access to countries, which deny access to other European organizations and their representatives.

#### **Readings:**

Brett, Rachel .1996. “*Human Rights and the OSCE*”, in: *Human Rights Quarterly*. No. 18, p.668-693.

Oberschmidt, Randolph/ Zellner, Wolfgang. 2001. *OSCE at the Crossroads*. Hamburg, p.3-28.

### 5<sup>th</sup> Session

#### **OSCE: Lobbying and cooperating for Human Rights**

The OSCE is widely lobbied by NGOs throughout Europe. For many Eastern European NGOs and representatives of civil society, the OSCE is the only European Organization

that has offices in transition countries as for example in Central Asia and the Caucasus. NGOs ask for financial support and cooperate with the OSCE. They diffuse the idea of Human Rights with the financial and logistical support of the OSCE. In return the OSCE benefits from the NGOs contacts on local levels where the OSCE itself has no representatives. The OSCE is a political stabilizing institution, which monitors elections, promotes minority rights and gender issues, fosters the engagement of civil society and reconciliation process.

**Readings:**

Keck, Margaret/ Sikkink, Kathryn .1998. *Activists Beyond Borders: Advocacy Networks in International Politics*. Cornell University Press, Chapt. 1

Internet: [www.osce.org](http://www.osce.org)

6<sup>th</sup> Session

**Council of Europe: Institutions and Function**

The Council of Europe (CoE) is the oldest European Human Rights monitoring institution. Its legal fundament the European Convention for Human Rights was set up shortly after the 1948 UN-Universal Declaration for Human Rights in 1949/1950. Since then the CoE has become the biggest and most influential organization on the European continent, with more than 40 member states. Its variety of institutions, committees and commissions may irritate external observers. This variety is the result of a slowly growing intergovernmental monitoring body that faces current changes and reforms. After the Cold War the CoE rapidly gained influence, particularly in Eastern Europe.

**Readings**

Tomkins, Adam .1997. "Civil Liberties and the Council of Europe: A critical survey", in: Gearty, C.A (Ed.) *European Civil Liberties and the European Convention on Human Rights, A Comparative Study*. Kluwer, p. 1-47.

7<sup>th</sup> Session

**The Council of Europe, in competition to other IGOs**

The Council of Europe (CoE) is the biggest intergovernmental and legal binding monitoring body in Europe. States have given up sovereignty to the CoE monitoring bodies and face consequences if they do not fulfil certain Human Rights standards. With the increasing competencies of European institutions in general, the CoE has not only gained power but also competes with the European Union (EU).

**Readings/ Research**

*Council of Europe Web Site* on theme files: [http://www.coe.int/T/E/Human\\_rights/cddh/](http://www.coe.int/T/E/Human_rights/cddh/)

## 8<sup>th</sup> Session

### **European Court for Human Rights (ECHR): Case studies and group discussions**

The CoE-European Court for Human Rights (ECHR) is the oldest and most profound regional Human Rights Court in the world. It started its work in the 1950s, to overlook the implementation of the European Convention for Human Rights. The convention is the ground for all jurisdiction of the CoE work. The condemnation of member states in case of grave human rights abuses, can lead to heavy compensation payments to the victims of human rights violation. This has been the case in many Eastern and Western European countries likewise. Many advocates, lawyers, national and international human rights NGOs like Amnesty International and Human Rights Watch use the Court to bring those governments and perpetrators responsible for human rights violations on European territory to fair trial.

### **Readings**

ECHR Web Page *Introduction* <http://www.echr.coe.int/echr>

Council of Europe (Ed.) *The European Court for Human Rights, Survey of Activities 2005.*, 2006 et al.

## 9<sup>th</sup> Session

### **European Union's Human Rights Foreign Policy**

The EU's human rights policy is as of today, only a foreign policy. The European Union's foreign ministers (from each of the current 25 member states) make joined statements when fostering human rights outside Europe. In comparison to the OSCE and the CoE, the EU fosters and monitors human rights, for example, in Asia and Africa. These human rights policies have also been agreed upon with other European institutions such as the CoE. However, with the increasing power of the EU and its efforts at coming up with a proper constitution, human rights are on their way to becoming part of a "internal declared" community policy, too. One of the first steps was to appoint a High Representatives for Human Rights of the EU in 2005.

### **Readings:**

Alston, Philip (Ed) 1999. *The European Union and Human Rights*. New York, p. 627-686.

European Unions Council/ Representatives for Human Rights:

<http://www.consilium.europa.eu>

## 10<sup>th</sup> Session

### **European Union's Human Rights Policy: The Constitution**

The European Union's (EU) Human Rights Policy has only developed since the 1990s. The European Community/EU was first established in the 1950s as a mere international economic body (the European Economic Community-EEC). It was only after the Cold War that the idea of a more political and legal binding intergovernmental organization was fostered by its member states that led to the formation of the EU. Human Rights are

one of the priorities in the 2004 EU constitutional draft. However, the constitution has not yet come into force and the EU remains, so far, a weak organization with respect to monitoring human rights within their member states.

**Readings:**

Alston, Philip (Ed) .1999. *The European Union and Human Rights*. New York, p.3-68  
Peers, Steven (Ed) .2004. *The European Union Charter of fundamental Rights*. Oxford et al.

11<sup>th</sup> Session

**Non-governmental Organizations (NGOs) and their power in Europe**

Europe hosts some of the “oldest” and strongest human rights NGOs and networks. Amnesty International was founded in England and Human Rights Watch started its work as a result of the CSCE-Helsinki peace process in the 1970s and 1980s during the Cold War era in Europe. Today, there are several thousand NGOs registered in Europe. Their networks and lobbying structures are professional and none of the IGOs in Europe can today diffuse their human rights agenda without the support and cooperation of these NGOs. Thus, these close networks and interdependence also carry the risks of outsourcing the responsibility of IGOs to NGOs in safeguarding human rights.

**Readings**

Clark, Ann Marie .2001. *Diplomacy of Conscience, Amnesty international and Changing Human Rights Norms*. Princeton Univ. Press, Chapt. 1.  
Risse, Thomas/ Ropp, Stephen C./ Sikkink, Kathryn (Ed.) 1999. *The Power of Human Rights, International Norms and Domestic Change*. Cambridge University Press, p. 1-37 and p. 205-232.  
Williams, Betty, 2000, *Northern Ireland*, in: Hopkins, Jeffrey (Ed.) *The Art of Peace, Nobel Peace Laureates Discuss Human Rights, conflict and Reconciliation*, Snow Lion Publications, Ithaca, et al, p.51-74.