



Event Report

Title: Human Rights Justifications in the EU and Beyond

- **Date:** 3 September 2025
- **Type of Event:** Webinar
- **Organizers:** Organized by the Institute of International Relations in Prague
- **Number of participants:** 62
- **Number of speakers:** 6
 - **Ester Herlin-Karnell**, Professor of EU law, Gothenburg University (Sweden);
 - **Enzo Rossi**, Associate professor in political theory, Amsterdam University (The Netherlands);
 - **Aravind Ganesh**, Lecturer in Law, Sussex University (United Kingdom);
 - **Claudio Corradetti**, Associate Professor in philosophy, Tor Vergata Rome University (Italy);
 - **Ayelet Banai**, Lecturer in Political Theory, Haifa University (Israel);
 - **Nikola Schmidt**, Senior Researcher, Institute of International Relations Prague (Czech Republic)
- **Link to the Intersect Observatory:** <https://hrjust-intersect-observatory.eu/events/human-rights-justifications-in-the-eu-and-beyond/> + **Institute of International Relations in Prague website:** <https://www.iir.cz/en/human-rights-justifications-in-the-eu-and-beyond-1>



Detailed Report from the Webinar:

The webinar began with an overview of the role of human rights since World War II, noting how they've become a central topic. The first international human rights instruments, such as the Universal Declaration of Human Rights, the European Convention on Human Rights, and the EU Charter, were mentioned as key milestones. It was highlighted that despite many years having passed, the situation regarding human rights is still evolving.

A key part of the introduction was defining what human rights are. They were described as moral rights that all humans possess by virtue of their humanity, as a form of global political practice (making them political rights), and as international and domestic legal rights. The presenters also touched upon who holds human rights duties, raising the question of whether this responsibility lies only with states or also with private corporations. The distinction between negative rights (e.g., the right not to be tortured) and positive rights (e.g., the right to education) was also explained.

The final point of the introduction concerned the possibility of derogating from human rights. The speakers clarified that while some rights, like the right to dignity, are absolute and can never be derogated, others can be limited in specific situations, such as during a pandemic. The overall topic of the HRJust project's third work package (WP3) was introduced, focusing on when states can use human rights as a legitimate justification, for example, to derogate from EU law, and when such use might be an abuse.

Ester Herlin-Karnell

Ester Herlin-Karnell's presentation focused on three key areas. She first discussed the member states' perspective, specifically whether a member state can use a higher level of human rights protection than the EU's. She emphasized that such a justification must be genuine, citing the rule of law crisis with Poland and Hungary as a prime example of states defending their own interpretation of human rights. She also mentioned the Asylum Migration Law Case (Case 97/24) and the European Arrest Warrant (C-216/18) as cases where differing interpretations have caused legal and political issues.

Next, she touched on the EU's perspective, highlighting the EU global human rights sanctions regime used to address breaches abroad. She also pointed out that the current human rights regime is largely anthropocentric, meaning it focuses on humans and often excludes the rights of nature and animals, a topic she linked to Article 37 of the EU Charter of Fundamental Rights.

Lastly, she discussed how human rights serve as a ground for EU legislation, such as in the criminalization of hate speech and gender-based violence. She noted that the new AI Act is partly based on human rights principles like privacy and freedom of expression. She concluded by stating that her research aims to help understand what it means to refer to human rights justifications within the EU's legal framework.

Ayelet Banai

Ayelet Banai, whose background is in political theory, explained her work on the conceptual relationship between states and human rights. She mentioned that this theoretical problem dates back to the French





Revolution and the Declaration of the Rights of Man and of the Citizen, which presented a paradox: natural rights exist independently of institutions, yet the purpose of political institutions is to protect them. She also discussed the interest theory of rights, noting the difficulty in moving from a basic interest to having a full-fledged right.

In her work, she offers a "critical status theory of human rights as claim rights." She accepts that states are the primary duty-bearers of human rights but argues we need a framework to address state failures. She emphasized that states often fail to protect human rights, whether intentionally or unintentionally, and therefore we need a system for allocating these duties to other global or non-state institutions.

Enzo Rossi

Enzo Rossi, a political theorist, spoke about the historical use of human rights discourse to criticize state actions. He explained that a key insight of the project is the growing trend of states using human rights to justify their own positions. His contribution to the project is to establish when this use is problematic. He uses a methodology called radical realist ideology critique, arguing that a concept shouldn't be used to evaluate political structures if those same structures played a causal role in the concept's development.

To illustrate this, he used a "toy example": in a patriarchal society, the belief that "father knows best" is often a result of paternal inculcation, which he sees as a form of power self-justification. While this is a moral problem, he focuses on the epistemic dimension, arguing that beliefs that arise from power self-justification are not good sources of knowledge. He plans to use this methodology to investigate the genealogy of human rights discourse and determine which types of human rights justifications, if any, are suitable for defending state actions.

Claudio Corradetti

Claudio Corradetti's paper is titled "Before the Law: Human Rights from Justification to Solidarity." He explained that he considers human rights to be "trapped" in a paradox, similar to the one described in Kafka's story "Before the Law." In this story, the law promises protection but simultaneously excludes those who don't already belong to it. He proposes that a way out of this paradox is to shift the focus from human rights as justification to human rights as solidarity. He bases this argument on the urgency of the current situation, citing the decay of human rights protection and the increasing number of displaced people (108 million) despite the existence of a seemingly "very refined" system of human rights protection.

Nikola Schmidt

Nikola Schmidt discussed his paper on "Experts as a Normative Power in Global Governance." His central argument is that knowledge produced by experts influences political authorities. He explained that this knowledge changes public perception of challenges humanity faces, thereby altering the responsibilities we place on political authorities. He outlined two ways this knowledge production has an effect: framing new threats that hamper human flourishing and framing new opportunities that enable it.





He outlined the general effects of knowledge production, including a shift in the sources of authority from political to epistemic and a change in the foundation of the social contract itself, whether national, transnational, or global. He posed several questions he is currently studying in his paper, including whether experts are sincere in their intentions, how political authorities alter normative requirements to align with their own agendas, and if the inability of national authorities to address global challenges leads to a paradigm shift from national to transnational authority. He provided three examples he will develop in his paper: climate change, planetary defense, and the pandemic. He concluded his presentation by asking a thought-provoking final question for his paper: Is the normative foundation of human rights about survival or flourishing?

Aravind Ganesh

Aravind Ganesh, a legal philosopher, spoke about his research, which explores the EU's role in human rights from a Kantian perspective. His specific contribution is arguing that the right to migration justifies the exercise of EU jurisdiction on the high seas. He argues that we should move away from conceiving of the high seas as "global commons" and instead see them as "global public goods" that are always already under jurisdiction.

He explained that this perspective justifies the EU's long-standing practice of asserting extraterritorial jurisdiction over the high seas, citing Article 3(5) of the Treaty on European Union. In this view, human rights serve as justifications for, rather than restrictions upon, the EU's competence to legislate. His paper, "Waves of Freedom: Kant and the Right to Rescue on the High Seas," argues that all seafarers, including migrants, have an enforceable right to maritime rescue. He critiques existing doctrines and proposes a Kantian framework where human rights function as fiduciary duties between states and individuals. From this perspective, a jurisdictional relationship is created as soon as a distress signal is received, obliging the state to act. He concluded by reframing maritime rescue not as a discretionary humanitarian act but as a binding legal right.

Summary of Major Takeaways:

Understanding Human Rights: Human rights were defined as moral, political, and legal rights. The discussion highlighted the distinction between negative rights (e.g., the right not to be tortured) and positive rights (e.g., the right to education). The speakers also raised the question of whether the responsibility for upholding these rights lies only with states or also with private corporations. While some rights, like the right to dignity, are absolute, others can be limited in specific situations.

The EU's Role and Challenges: The webinar emphasized that human rights serve as a justification for EU legislation, such as the AI Act and laws on hate speech. However, it also addressed the challenges posed by member states, like Poland and Hungary, who use their own interpretations of human rights to justify their actions. The EU's global human rights sanctions regime was also mentioned as a tool for addressing breaches abroad.

The Paradox of Justification: A central theme was the growing trend of states using human rights to justify their own positions, which was seen as problematic. The speakers proposed moving from a





framework of human rights as justification to one of human rights as solidarity, especially in light of the increasing number of displaced people and a perceived decay in human rights protection. One speaker argued that we need a system for allocating human rights duties to non-state institutions to address instances of state failure.

Emerging Perspectives and New Frontiers: The seminar introduced new ways of thinking about human rights. One of the takeaways was that the knowledge produced by experts is increasingly influencing political authorities and shifting the basis of the social contract. Another key point was the argument that the high seas should be considered "global public goods" rather than "global commons." This re-framing means that the right to rescue at sea for migrants and others is not a discretionary humanitarian act but a binding legal right that creates an immediate jurisdictional duty for states.

Grant Agreement Questions

1) How do States defend and legitimise its actions through human rights? Compare the general and the particular.

States use human rights to defend and legitimize their actions in several ways. The overarching theme is that human rights, which were historically used to critique state actions, are now increasingly used by states to justify their own positions. The text provides a general example by mentioning the "rule of law crisis" with Poland and Hungary, where these states defend their own interpretation of human rights. This indicates a general trend where nations selectively interpret and apply human rights principles to suit their domestic agendas.

On a more particular level, the text cites specific cases. For instance, the Asylum Migration Law Case (Case 97/24) and the European Arrest Warrant (C-216/18) are mentioned as instances where different interpretations of human rights have led to specific legal and political issues. This illustrates how the general concept of states using human rights for self-justification manifests in particular, concrete legal conflicts. The text also notes that a justification must be "genuine," implying that not all state-based human rights claims are considered legitimate, especially within a supranational framework like the EU. In essence, the general shift is towards states using human rights as a tool of justification rather than a limit on their power, while the particular examples are the specific legal disputes that arise from this practice.

2) What role does geopolitics play in strategy, resources and reach.

Geopolitics significantly influences a state's strategy, especially in how it justifies its actions on the global stage. The text discusses how states use human rights as a "legitimate justification" for their own positions, sometimes as a shield and other times as a sword. This is a core geopolitical maneuver. For instance, the mention of the rule of law crisis with Poland and Hungary shows how nations use their own interpretations of human rights to defend their sovereignty against supranational bodies like the EU.





Similarly, the EU's global human rights sanctions regime is a prime example of a geopolitical strategy—using human rights as a tool to project power and influence a state's behavior abroad.

The concept of human rights as both a constraint and a justification for a state's actions is deeply geopolitical. As the text suggests, human rights can be used to limit a state's power (e.g., the right not to be tortured), but they can also be used to expand it (e.g., the EU asserting jurisdiction on the high seas to protect migrants). This duality is central to modern geopolitical strategy, where a country's moral high ground can be a powerful tool.

3) What role has EU in comparison between internal to EU and external to EU?

The EU's role regarding human rights was presented with a clear distinction between its internal and external functions. Internally, the EU must contend with its own member states, which may justify their actions by claiming a higher level of human rights protection than the EU's standard. I was mentioned that the EU's legal framework must determine when such justifications are legitimate or an "abuse." This internal tension is exemplified by the rule of law crisis in Poland and Hungary, where member states' interpretations clash with EU law. The EU's role here is to manage these legal and political conflicts, ensuring coherence within its legal order.

Externally, the EU uses human rights as a tool to influence other countries. It was noted that the EU employs a "global human rights sanctions regime" to address human rights breaches in countries outside its borders. This demonstrates a more proactive, and sometimes punitive, role for the EU in its external relations. Furthermore, it mentioned the EU's legal competence to legislate based on human rights principles, such as in the criminalization of hate speech and gender-based violence, as well as the AI Act. This shows that the EU uses human rights to shape its own legislation, which can then have a global impact. Aravind Ganesh's research also highlights an external role, arguing that the EU's assertion of extraterritorial jurisdiction on the high seas is justified by the right to migration, reframing the EU's actions from humanitarian gestures to binding legal duties. Thus, while internally the EU's role is often one of managing and harmonizing interpretations, externally it acts as a sanctions-wielding and legislating force based on its own human rights framework.

