

IPSA RC26 ON HUMAN RIGHTS
SYMPOSIUM
“CURRENT ISSUES ON HUMAN RIGHTS”
CARLOS III DE MADRID UNIVERSITY
23-24 MAY 2019

On the 23 and 24 of May 2019 it's been taken place the 26th edition of the IPSA Research Committees in the Carlos III University.

The first day of the symposium has been divided into four panels.

The first, in which the chair was of Jedzej Skrzypczak, from the Adam Mickiewicz University, started with the speech of Alexander Sungurov, who talked about the responsibility of academicians in researching and promoting Human right; on this point is to underline how human rights are to be seen not like a religion but as they are: a juridical conception. Is presentation has started from an historical perspective, putting in evidence the UN support, to arrive at the main problems of this investigation area, like “when the rights of life begin” and when it finishes.

The second speech has been of Jesús García Cívico, from the Jaume I University. He spoke about Science from HR perspective. This leads to discuss around arguments like the right to share in scientific advancement and its benefit, the right to have a protection by the authors but, above all, leads to consider the **science as a right (art. 27 UDHR, art. 15 ICESCR)**. Another point of discussion was on “cultural milestones”. One of these is the normative milestone and, in this perspective, even the UDHR is a cultural milestone according to the universalist meaning of culture. The direct conclusion could be that the UDHR is not universal, but, considering the complexity of law, it would be better to say that it is universalizable with the cooperation of all scientific branches of knowledge.

Jeffrey Davis, from the University of Maryland, conducted a speech around the “Constitutional Impunity” in the US. Is important to observe, and his presentation managed to make it, how a Nation can deviate in the facts from its international declared intentions. US have had an important role in developing the idea of Human Rights in 18th Century and in forging the post-war HR regime. In the jurisprudence, however, there have been cases in which is maintained a racial oppression and HR are substantially ignored. One case to examine is that of the little Joshua Dashanev, in which judgment has been affirmed that “nothing in the language of the [Constitution] requires the State to protect the life, liberty and property of its citizens against invasion by private actors”. This analysis leads to affirm how is important that States have to guarantee the effectiveness of conventions to citizens, not to hide behind a constitutional impunity with sentences like “a right is merely a limitation on what the state can do and it does not guarantee minimal levels of safety and security”.

The first panel has been closed by the speech of Krzysztof Lazarski, from Lazarski University, Poland, that has told about HR from an historical point of view. The presentation departs to the maybe the first point of development of HR, the Magna Carta (1215), and leads to the Athenians, highlighting how with them rights were enjoyed not as

a human being but as a citizen. The speech continues with the presentation of the juridical context with the Romans and leads to the innovative idea of the Liberalism, with which we start to talk about human as law-subject rather than citizens, citing the thought of authors like Locke and Montesquieu.

The second panel, whose topic where civil rights, conducted by Joana Rebelo Morais, started with the presentation of Jędrzej Skrzypczak on “The right to freedom of opinion and expression in the UDHR- a contemporary perspective”.

Freedom of speech is incontestably one of the most important human rights, but, in the Web-era, is necessary to re-examine the content of art. 19 of the Declaration. We are experiencing a technological revolution in which Internet has become a public space that it's global, unlike any legal action, which would be territorial.

In according to art.19 UDHR, everyone has the right to freedom of opinion and expression, but what will be it's meaning in the digital era? New issues ineluctably arise, like the freedom and the right to access on internet, that is now an important instrument to participate in the democracy, and the right to publish or not certain content. And here there's another problem: who has to judge if a content is allowed or forbidden? A court or private organizations? We need of new remedies in front of new problems and, today, the national legal systems absolutely seem inadequate to guarantee peoples' freedom against potentially violations.

Oscar Perez de la Fuente has spoken about “How can the internet change human rights on online hate speech regulation?”.

The extremely freedom of speak that can be found online create new problems for HR. Umberto Eco said on this theme: “now a consistent amount of fools has the ability to express their own opinions on social networks. Therefore, these opinions reach very high audience and are confused with many others expressed by reasonable person”. It's no rarely to found on social networks many “hate speeches”. A hate speech is a form of expression which spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred based on **intolerance**; this is compounded by the capacity to write this speech anonymously. To guarantee the global protection of HR we need of global legal instruments, able to get trough national borders, given the uniqueness of the web-space.

Remedy? The best is critical education, not censorship.

Migle Laukyte, from Carlos III University, talked about “Trustworthy Artificial Intelligence and Human Rights”. Her speech showed how AI are seen like a problem seeing them from an historical point of view. But the new scenarios with them makes arising new HR problems because they, in most cases, work like a mirror of the idea of who have projected them. And it can implicate discriminatory problems, like see beauty only like that

of white woman beauty. New solutions for new kind of problems: has been created, for example, a program able to not learn discriminatory behaviors and to not reply at them.

The topic of the third panel were “social rights”.

With the moderation of José Luis Rey, started with the presentation by Skype of Pablo Sartorio about “Human rights behind bars. Paying a debt that keeps on growing”. In it Sartorio deals with the effects of prison on a person and the main problem after that in order to rehabilitate his/her in the society, like find a job, housing, don't heed to easy money etc. it's important to consider the story of a person and is good baggage of qualities, so as to initiate a process that makes it easier not to go back behind bars.

Tomas Litwin conducted the second speech of the panel with a presentation about “Do the same-sex couples have the right to marry under the rules of the UDHR and the Constitution of Republic of Poland from 1997?”. Are of reference art. 1 and 2 (points 1 and 2) and 16 (under 1 and 2 points); literally it is not forbidden at the same-sex couples to marry, is only guarantee the liberty even of marriage. In the Constitution of Poland a lecture that forbid the marriage at these kinds of couples is possible under an historical and literal-logical point of view, but not at all systematically. In the jurisprudence it's a double reading: for the Constitutional Tribunal art. 18 forbid homosexual marriages, for the Voivodship Administrative Court in Warsaw they are not forbidden by the article.

Herena Neves Maués Correa de Melo conducted two presentations: the first on contemporary slavery labour in Brazil and the second on the education on people to participate.

In the first she showed like Brazilian penal code condemns slavery. In this conception to reduce someone in slavery means submit someone to forced labour or submit him/her to degrading work conditions, or restricting, by any means, its locomotion due to debt contracted with the employer or prepost. The problem rises on the expropriation of land where slavery work is found in front of the constitutional social function of rural property. It would be better to see by a critical point of view the amendment to constitutional art. 81, approved in 2014, that could be able to bring back the discussion about slavery in Brazil.

In the second speech she had talked about public hearing as an important instrument for the effectiveness of the fundamental social right ensured by the Brazilian Constitution. An important point on these are budgetary hearings, that are fundamental to inform citizens and also to allow that the public financial execution concretely reflects the list of fundamental rights needed to the social welfare.

The speech of Andrzej Marian Swiatkowski was on “social rights in Europe and free platform work”. Are recalled art.1, 2,4,5 and 6 of the European Constitution.

In a setting just like that of the gig economy also the way of work changes. In fact the juridical community have now to resolve the “riders” problem et similia. They are *de facto* workers but *de iure* have had different classifications like “self-employers”, “students-workers” etc... but neither of these ensure them the juridical protection that they might have.

They are controlled by clients and are “organized” by an algorithm. Only a little part of them have a partly regulation. Now the priority is to put them into an adequate work-category and guarantee their social security rights.

The fourth and last panel of the first day, dedicated to political rights, have had as moderator Andrzej Marian Swiatkowski.

In this, Joana Rebelo Morais talked about the limitation of political rights in Portugal for the people who had violated that right during the fascist period, in occasion of the new democratic elections after the win of the non-violent movement against military party. After all, the article that limited political right has been eliminated by 1982 constitutional review.

Agnieszka Grzechynka’s speech was on “Spain and Catalonia. Political struggles in the light of human rights”.

She has set this problem:

- Was denied the Catalans the right to organize independence referendum a violation of HR?

Spain’s Constitution state the indissoluble unity of the Nation. But, at the same time, the Charter of the United Nations and the Statute of the international court of Justice declare the right of nations to self-determination as the first of HR.

Is to establish if Catalonia could be defined as a nation. For the presented point of view, yes. Further, is considered the use of violence against voters, that is a HR violation and the theme of Catalan as political prisoners in Spain and the Europe Position.

Carlos R. Fernandez Liesa talked about “Human rights and democracy. Europe, Spain and Catalonia”.

Nationalism leads to separatism. One of the main opponents to nationalism in pluralism. And it’s what is happening in Catalonia. HR problems are numerous because, apart from the press, nationalist have the control of the instructions. Discriminations are applied also at the linguistic level.

In Europe, however, we are seeing many states that would be reach the independence; they are for more rich regions that don’t want to respect the solidarity principle.

Helena Torroja Mateu analized Catalonia’s question from another point of view. In fact, in her perspective the self-determination can be only use for, for example, colonies and occupied lands, not for Catalonia. The opposite could mean, in this way, accept the principle one man-one state or one nation-one state, ignoring a global vision of the State.

For Victor Carlos Pascual Planchuelo, instead, in an international-law perspective the Catalonia secession, under certain condition, could be well legitimate. What would happen if some states recognize Catalonia as autonomous State?

Friday 24 May 2019

The first panel was dedicated to cultural rights.

Monique Falcao, from University Santa Ursula in Rio de Janeiro, presented an interesting theme: the Quilombola’s question. Quilombos were “escaped slaves” placed far from

landlords, in forest. Their rudimentary organization was considered illegal but, despite that, they survived and became social and economic actors. In the past have been recognized the Quilombola's territory in public or legal protected area but today there are many problems around them because they are compared with favelas (so they'd be irregular) and for racial and behaviour question with neighbors.

Tatiana Barandova affronts the gender equity and the bio-political issues in the Russian context. She's represented some HR violations in the penitentiary system and underlined how the road to reach acceptable range of right in penitentiary system, migration, health care fields is very long.

Elena Laporta Hernandez analyze guarantees of non-repetition and a gender perspective into the transformative justice process. In the speech arises also the theme of the necessary private and public transformation in a gender perspective with the redistribution of the main loads.

Ayako Inokuchi has draw up the socioeconomic impacts of driveless car in relation to "right to transport" in the Keihoku region, in collaboration with Toyota motor Corporation. Are represented the main benefit of the driveless like increase safety, financial benefits, environmental benefits. In this project mobility will be a service and public transport will be dominated by few companies.

The last panel was on sustainable development goals and UN global compact for migration.

Veronica Reda affronts the main goals of sustainable development:

- Ensure access to affordable, reliable, sustainable and modern energy for all
- Make cities and human settlements inclusive, safe, resilient and sustainable
- Take urgent action to combat climate change and its impacts.

Patrizia Rinaldi in her speech underlined the importance of be heard by unaccompanied minor migrants. It is a very important ring in the chain of reception in order to manage to identify its family and facilitate reunification.

Alfredo Dos Santos Soares made a presentation on "The (on)protection of internally displaced persons under the Global Compact on Refugees" by which emerges how the main part of migrations are forced and how, in the future, climate changes will become the first cause of human displaces.

Giuseppe Matteo Pezzullo analyzed the Global compact under a gender perspective. One of the main points is doubtless effectiveness of HR and the importance of the cooperation among Countries in promoting the universality of HR.

The Symposium has been closed by Karen Curiel, that spoke about the securitization of migration in US and violations of HR of people in an irregular migratory situation. Has been retraced the historical process to reach the current situation in which irregular immigration is a crime and this system can only increase the vulnerability of these subjects.