**Dr Anna Śledzińska-Simon - Introduction to Human Rights, LLM 2019/20**

**Lecture 4**

**Human rights and democracy**

The aim of this lecture is to:

* Discuss the main threats to human rights stemming from the majority rule
* Describe the conditions of a healthy political process
* Understand the impact of constitutional entrenchment of rights on the political process
* Explain the reasons for the global rise of populisms
* Discuss the complex relationships between democracy and human rights.

**Take 4 STEPS**

**STEP 1**

Read Chapter II “Rights and Democracy” in “Human Rights and Their Limits” (pp.70-104) by Wiktor Osiatyński and answer the following questions:

1. What is the function of the principle of separation of powers in a liberal democracy? How does this principle serve human rights?
2. How to understand the claim that human rights are trumps taking precedence over democracy and public good?
3. What constitutional mechanisms (institutions) help human rights protection?
4. What is the difference between constitutional and statutory rights?
5. What are the constitutional requirements for limitations of rights?
6. What is the status of rights in times of emergency?
7. How to understand the concept of human rights as preestablished constraints of the democratic process? What decisions should be left outside the political process?
8. What is the logic of democracy and what is the logic of rights?
9. What is the paradox of modern constitutionalism?
10. Is the political process (in practice) about reaching a compromise?
11. Why social demands are often expressed in terms of human rights?
12. Does a properly functioning democratic process take down postulations regarding rights protection?

Think of the pattern: political oppression -> call for civil and political rights, social exclusion -> call for social and economic rights, then call for political participation in decision-making.

1. Explain the meaning of “illiberal democracy” referring to frequent strategies of populist leaders. In what ways illiberal / populist democracy differs from deliberative democracy?
2. In what ways the processes of regional integration and globalization affected national governments and their decision-making powers? (keywords: sovereignty, accountability, transparency)
3. What is the impact of electronic media and communication on the politics? (keyword: emotional politics).
4. Why is democracy as the majority rule threatening human rights?
5. What are the main differences between the individualist and communitarian vision of rights?
6. What is the claim of conservative authors about the state intervention into social groups? What is the liberal response to this claim?
7. In what sense human rights depend on effective mechanisms of redistribution of resources?
8. What rights are typically granted to citizens (and refused to non-citizens)?
9. Who are the majority in transition societies? How the economic situation in a country affects the democratic process? Can human rights slow down the economic progress?
10. (When) Can minorities be veto-players in a democracy?
11. What were the conditions for the “rights revolution” in the US and Canada?
12. What are the advantages of legal empowerment over the top-down imposition of the rule of law?
13. Why is access to justice conducive to protection of human rights in a democracy?

**STEP 2**

Familiarize yourself with the following documents regarding political rights:

ECtHR, Prisoner’s voting rights

<https://echr.coe.int/Documents/FS_Prisoners_vote_ENG.pdf>

Husted v. Rundolf Institute, 584 [U.S.](https://www.google.com/search?sxsrf=ALeKk010gz-joCoy0bsTm-CInlUalB2K_w:1585327997529&q=U.S.&stick=H4sIAAAAAAAAAONgVuLUz9U3sEw2LzdYxMoSqhesBwDLbL-eFAAAAA&sa=X&ved=2ahUKEwj2p5SBj7voAhUCHHcKHZowDWoQmxMoATAXegQIDhAD&sxsrf=ALeKk010gz-joCoy0bsTm-CInlUalB2K_w:1585327997529) \_\_\_ (more)138 S. Ct. 1833

<https://www.oyez.org/cases/2017/16-980>

<https://www.supremecourt.gov/opinions/17pdf/16-980_f2q3.pdf>

CRDP, Communication No. 4/2011, *Submitted by :* Zsolt Bujdosó, Jánosné Ildikó Márkus, Viktória Márton, Sándor Mészáros, Gergely Polk and János Szabó (represented by counsel, János Fiala, Disability Rights Center )

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsiltZc5%2Fou8oZErViZR3Rfd00U82wMnxtD8Mnk1GpaFNc3LmViG7vTUoxenPOOmvP2DkMY8oomkWrVr05gP1%2FH2c5NfP%2Bw8fDKEsAeTlGMJ9VAohblGgPxSByN3FGMPhwQ%3D%3D>

**STEP 3**

Watch the lecture on alternatives to democracy in 21 century

<https://www.youtube.com/watch?v=lzqkXhdo0qc>

**STEP 4**

Prepare for the discussion on the relationships between democracy and human rights?