

International Protection of Human Rights in Africa, Asia and the Middle East

It is well known that contemporary international law is influenced – at least with regard to the content of its norms – by an increasing concern for the protection of human rights. As a result, international law scholars nowadays put the topics related to human rights into the foreground. However, they usually carry out their research on the basis of the implicit (and axiomatic) presupposition that human rights are almost exclusively shaped and dominated by a ‘Western’ vision. If you look more closely, such vision affects human rights not only in the context of international law, but also in that of legal and social sciences in general. One can even take a broader view, adding that human rights are commonly perceived as a ‘Western’ product.

Philosopher Slavoj Žižek criticises such idea of human rights according to his *Marxist Symptomal Reading* of human rights (see S. ŽIŽEK, “Against Human Rights”, in *Wronging Rights? Philosophical Challenges for Human Rights*, A. SINGH RATHORE, A. CISTELECAN (eds), London, 2011, p. 149 ff., mainly at 164 ff.). This reading does not go against human rights as such but shows the essence that gives to the notion of human rights its specific bourgeois ideological spin. It mostly disapproves the way ‘Western’ societies use (and abuse) human rights in order to reach their aims, including *inter alia* that of influencing scientific research.

All that contributes to explaining the many detailed legal studies that exist about the instruments and mechanisms of protection of human rights instituted under the aegis of the United Nations. Likewise, at a regional level, legal scholars have always shown a very remarkable interest in the European Human Rights System. Furthermore, they have recently paid close attention to the Inter-American Human Rights System.

On the contrary, international law studies on the safeguard of human rights in regions such as Africa or the Middle East – both governed by their own human rights systems – have been set aside so far. The situation of the legal research concerning Asia – where only soft law instruments currently exist – is even worse. More precisely, it is true that some authors have dealt with the international protection of human rights in Africa, Asia or the Middle East. However, their research is mostly limited to specific aspects, or is conceived only to be included in general treatises or handbooks on international human rights law.

In the light of the foregoing, the debate launched in this special Section of *Diritti umani e diritto internazionale* aims at bridging a less and less excusable gap in the field of international human rights law. To this end, the main critical questions underlying the protection of human rights in Africa, Asia and the Middle East will be illustrated. Light will be shed on the interests of the States belonging to those regions and on their influence in the implementation of human

rights. Basically, the common purpose is to scrutinise the effectiveness of human rights in the areas ‘at the fringes’ of the world.

Just one *caveat* applies: comparisons with the well-known European and Inter-American Human Rights Systems are not carried out. To put it differently, the European and the Inter-American models are considered only when appropriate. We believe that they should not be the ultimate aspirations for the other regions that are building their own human rights systems. As a matter of fact, the international protection of human rights in a specific area of the world has potentialities to be effective only bearing in mind the cultural, economic, historical, political and social features of that area.

In this special Section of *Diritti umani e diritto internazionale*, Konstantin D. Magliveras focuses on the protection of human rights in the Middle East. In particular, he outlines the effects of the ‘Arab Spring’ in augmenting the standard of human rights in the Middle East, with an insightful reference to the expected institution of the Arab Court of Human Rights. In his essay, Konstantin D. Magliveras does not forget the role of Islam as the predominant religion in the Arab States and the 1990 Cairo Declaration on Human Rights in Islam. Yota Negishi examines the protection of human rights in Asia. He goes beyond the typical question of whether a future Asian Human Rights System is possible, more concretely wondering whether the current Asian cooperation on human rights is appropriate. Yota Negishi applies a ‘Foucauldian methodology’ to emphasise the ‘bio-politics’ of human rights, which have been utilised by Asian States to reconcile their traditional developmentalist or socialist mindset with global neoliberal policies. I deal with the African Human Rights System. I underline the great number of monitoring bodies, both continental and sub-regional, which are competent for human rights disputes arisen in the legal frame drawn by the African Charter on Human and Peoples’ Rights. In particular, I inquire into the effective need to regulate the coexistence of these many bodies, taking into due account the general phenomenon of proliferation of international tribunals.

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