Development of Human Rights in Times of Terrorism

Розвиток прав людини під час тероризму

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Key words:

International law, United Nations, human rights, torture, terrorism, fair trail, mutual legal assistance, war on terror, ECHR.

Ключові слова:

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1. Introduction

The primary task of international law has traditionally been to regulate the relations among states. On this view, war was understood as the continuation of politics by other means. But as international law has developed, its role has changed. The introduction of poison gas in World War I and the resulting human suffering as well as the introduction of weapons of mass destruction changed the international community's attitude to war as a political instrument, based as it was on the positivist legal tradition. For the first time in history, war came under moral and social scrutiny, leading the League of Nations to formulate the idea of a "collective security system", in which war involved not just individual states but was a concern of the entire international community.[1] An international ban on war was formulated for the first time in the Kellogg-Briand Pact of 1928, which at the time was signed by almost all countries of the world[2]. This pact officially made *war as continuation of politics by other means* illegal. The horrific experiences of World War II which followed led to the establishment in October 1945 of the United Nations and to the adoption of the UN Charter, whose purpose was to prevent such wars in the future.

The history and development of European fundamental freedoms and human rights began in the post-war period linked with the Universal Declaration of Human Rights by the UN General Assembly on 10 October 1948. Here, the international community articulated fundamental universal human rights for the first time. On 4 September 1950, the Council of Europe's European Convention on Human Rights for the Protection of Human Rights and Fundamental Freedoms was opened for signature. As with all international treaties, the Convention required a minimum number of signatory states for ratification. The Convention entered into force on 9 March 1953. Britain was the first country to ratify the Convention in 1951.[3] In 1966, the United Nations drew up two Covenants on Human Rights: the Covenant on Civil Rights and Political Rights and the international Covenant on Economic and Cultural Rights. Together they constituted a further milestone in the development of a global legal safeguard for universal human rights and civil liberties[4]. Post World War II declarations of human rights stand in the legal tradition of the European Enlightenment; in particular in the tradition of the French Declaration of Human Rights of 1789 and the American Declaration of Independence of 1776. In the history of European integration, three key international European organisations are of paramount importance for the development

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Dr. Alexander Proelß, 'Raum und Umwelt im Völkerrecht' in Wolfgang Graf Vitzthum (ed) Völkerrecht (edn 5th, De Gruyter) 646 f.

[2] League of Nations 'General Treaty for Renunciation of War as on Instrument of National Policy' [1928] OJ=Not published

[3] Karpstein and Mayer, EMRK Konvention zum Schutz der Menschenrechte und Grundfreiheiten Kommentar (2012 C.H. Beck) 3

[4] International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966

of human rights and fundamental freedoms: the Council of Europe and the associated European Court of Human Rights; the Organisation for Security and Cooperation in Europe (OSCE) and the European Community, out of which the European Union emerged. The Council of Europe is the oldest of the three organisations and the one most clearly focused on the observance and development of human rights.

2. The Relationship between the European Union and the ECHR

International law has not traditionally been focused on the protection of individual human rights. The only exception is the diplomatic interventions of individual states. The creation of the European Convention on Human Rights (ECHR) and the European Court of Human Rights (ECtHR) as well as the increasing adoption of international criminal law into the laws of individual countries has fundamentally changed both the importance and the efficacy of international law. The ECHR has established basic minimal legal standards for human rights in Europe. Since the ECHR is a closed convention, the European Union, as a supranational organisation, could not join the ECHR until the 14th (and final) Additional Protocol had entered into force. In the 14th Additional Protocol, the Council of Europe expressly incorporated a clause of accession for the European Union.[5] In an expert opinion commissioned by the European Union, the European Court of Justice (ECJ) ruled that the European Community lacked the standing to formerly enter the ECHR.[6] Entry into the ECHR would require an amendment to the European Community Law. This did not occur in the Treaty of Amsterdam or in the Treaty of Nice. Instead, a European Charter of Fundamental Rights was created. In the European Charter, fundamental rights and freedoms such as the universal right to education are defined in broader terms than in the ECHR. The Charter was proclaimed by the European Council on 7 December 2000 in Nice, but was not legally binding. With the signing of the Treaty of Lisbon, the European Charter of Fundamental Rights of the European Union (the Charter) from 7 December 2000 as amended in Strasbourg on 12 December 2007 and inscribed in art. 6(1) TEU gained "the legal force of contracts" and had the standing of the Treaty on the future structure of the European Union and the Treaty on the functioning of the European Union.[7] Poland and the UK declined by protocol to extend the powers of the ECJ or that of their own national courts through the enactment of the Charter. No indirect rights were recognised by these two countries that were not already enshrined in national law[8].

3. Human Rights: Cultural Relativism or Universality?

The international agreements described above reflect the increased political and jurisprudential importance of human rights and their observance. Nevertheless, the worldwide discussion that takes place on the topic is far from uniform. The main point of contention is not just politically but culturally motivated. It concerns the question whether human rights are relative to a particular culture or whether they are universal. A formulation that succinctly captures the relationship between the cultural relativity and universal validity of human rights is the following:

[...] The presumption is that rights (and other social practices, values, and moral rules) are culturally determined, but the universality of human nature and rights serves as a check on the potential excesses of relativism[9].

The conflict of interpretations between a view of human rights as culturally dependent and a view that they are universally valid can be observed in the present-day discussion on the topic. There are Islamic countries with a completely different understanding of human rights than countries in the West with a liberal democratic tradition. As a result, there are significant discrepancies in the practice of applying international human rights standards and standards of freedom and political liberty in the world today. Nevertheless, one positive aspect of this situation is the expansion of human rights both substantively and in terms of the range of application worldwide. The expansion of human rights has not only led to a change in social order, but also to a change in state power. Cultural relativism is the ultimate breeding ground for the justification of racism and gender inequality and provides fundamentalist and totalitarian regimes the argumentative basis for systematically disregarding the ECHR.

Thus, human rights are closely linked for us with basic civil rights and are inseparable from the concept of universal human rights. The attacks of 11 September 2001 suddenly changed the global security situation: no

[5] Dirk Elers (ed), Europäische Grundrechte und Grundfreiheiten (De Gruyter 2009) 13

[6] ibid

[7] ibid 15

[8] Lisbon Treaty, Protocol on the Application of the Charter of Fundamental Rights of the European Union to Poland and to the United Kingdom [2007] OJ C 306/156

[9] J Donnelly. Cultural Relativism and Universal Human Rights (1984) 6 Human Rights Quarterly 401

longer were armies facing off against each other on the battlefield, but "nonstate actors" (in this case Al Qaeda) were engaged in highly visible terrorist attacks in the public square[10]. In addition, the need to prosecute massive human rights violations in Rwanda, the Congo and Sudan also contributed to changes in the scope and reach of international law. The application of the international humanitarian law of armed conflict is now mandatory for every state, independent of the principle of reciprocity. The obligation of states to comply with the Geneva Convention reflects a development that began with the Nuremberg trials of Nazi war criminals and continued with the creation of the International Court of Justice (ICJ) and the implementation of the International Criminal Tribunal for war crimes in former Yugoslavia[11]. Today, international law must respond to new challenges. Slaughter and Burke-White cite three principle stages for dealing with states that break or fail to adhere to international law[12]. The first stage is to offer targeted structural development assistance to stabilise states, so that they can comply with international standards. The second stage involves so-called "backstopping" through the establishment of an international criminal court as happened in Rwanda[13]. The goal is to encourage national governments to create a functioning legal system through the presence of the International Criminal Court, thereby making the presence of an international tribunal ultimately unnecessary. However, Slaughter and Burke-White point out that these first two new stages sometimes do not achieve the desired results, requiring the implementation of a third stage:

Particularly where states have purpose fully excluded themselves from international institutions or lack the will to comply (such as is arguably the situation with the alleged Iranian nuclear weapons program in 2006), resort to other methods – ranging from diplomatic isolation to economic sanctions and, in extreme cases, the use of military force – may be needed[14].

The third and most problematic approach is an external military intervention to restore peace and security, as for example in the 2008 UN peace mission in Sierra Leone[15]. The authors point out that in practice, a combination of the three approaches is often necessary.

A key objective of the UN is the global enforcement of human rights. Here, the global fight against terrorism and the strict observance of International Human Rights Law is particularly important. For this reason, the UN has highlighted the obligation to observe human rights in the fight against terrorism in its Security Council decision (UN General Assembly Resolution 288/60)[16]. The observance of human rights is of particular importance in fighting international terrorism because the protection of the rule of law, especially in emergency or extreme situations, is essential in opposing every form of barbarism. Another important point is to prevent terrorists' access to weapons of mass destruction. In this context, Slaughter and Burke-White note the importance of UN Security Council Resolution 1540, which requires state parties to prevent such access[17]. The authors consider the national implementation of this resolution as a key element for the functioning of international law. In their view, international law should ideally influence national policy at a national level:

Our claim "that the future of international law is domestic" refers not simply to domestic law but to domestic politics. More precisely, the future of international law lies in its ability to affect, influence, bolster, backstop, and even mandate specific actors in domestic politics.[18]

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[10] A Slaughter, W Burke-White The Future of International Law is Domestic (or, The European Way of Law)' (2006) 47 Harvard International Law Journal 330.

[11] Terry D. Gill and Dieter Fleck (eds) The Handbook Of The International Law Of Military Operations (2nd ed., OUP) 236.

[12] A Slaughter, W Burke-White, 'The Future of International Law is Domestic (or, The European Way of Law)' (2006) 47 Harvard International Law Journal 330.

[13] United Nations Security Council 'Resolution 955 (1994)' (UN, 1994) [Electronic resource]. – Mode of access : https://documents-dds-ny.un.org/doc/UNDOC/GEN/N95/140/97/PDF/N9514097. pdf? OpenElement> Accessed 28 March 2016.

[14] A Slaughter, W Burke-White, 'The Future of International Law is Domestic (or, The European Way of Law)' (2006) 47 Harvard International Law Journal 346.

[15] United Nations Security Council 'Resolution 1829 (1998)' (UN, 1998) [Electronic resource]. – Mode of access : https://documents-dds-ny.un.org/doc/UNDOC/GEN/N08/448/13/PDF/N0844813. pdf? OpenElement> Accessed 1 September 2017.

[16] United Nations General Assembly '60 / 288th The United Nations Global Counter-Terrorism Strategy' (UN, 2006) [Electronic resource]. – Mode of access : https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/504/88/PDF/N0550488.pdf?OpenElement.

[17] United Nations Security Council 'Resolution 1540 (2004)' (UN, 28 April 2004) [Electronic resource]. – Mode of access : http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1540% 282004% 29.

[18] A. Slaughter, W. Burke-White, 'The Future of International Law is Domestic (or, The European Way of Law)' (2006) 47 Harvard International Law Journal 350

This increasing interaction between international and national law corresponds to the general increase in the number of international agreements and expansion of the responsibilities of international organisations like the UN. In recent years, the possibilities for intervention by individual states have, by contrast, been steadily reduced. An example of voluntary restriction of individual states is Chapter I art. 2(7) of the UN Charter. Here, the application of enforcement measured under Chapter VII is not limited by the general prohibition on intervention[19]. This development of international law limits the reach of national law, the *domaine réservé,* especially in cases of gross and systematic violations of human rights[20]. For a human-rights oriented Union, it is essential that the fundamental decisions of the ECtHR define national human rights and the European Convention on Human Rights as having an equivalent basis in law. Unlike the International Court of Justice in the Hague, the principal judicial organ of the UN, the ECJ, can rely upon a developed system of legal protection that ensures the legal compliance between Member States and the EU.

4. Restrictions of Human Rights in Times of International Terrorism

Any "justifiable" restriction on enforcing human rights must comply with the rule of law that, however, is open to interpretation. Security laws adopted for counterterrorism may in retrospect be non-justifiable if they are incompatible with international law and the European Convention on Human Rights[21]. Since the Patriot Act of 2001[22] that has been tightened by President Bush's Military Order of 13 November 2001[23], *non-US* terrorist suspects could be detained indefinitely without a fair trial. This law authorises US authorities to conduct extensive monitoring and interception without judicial review. The Patriot Act was a central legal pillar of the US "global war on terror".

The Patriot Act has been criticised by human rights activists for violating international law. The US does not recognise the International Criminal Court (ICC) and, additionally, has concluded bilateral agreements with more than 50 countries, which makes it impossible to extradite US citizens to the International Criminal Court in The Hague. The US has allowed for kidnapping of terror suspects for questionable interrogation in so-called "black sites" for months. Perhaps even more problematic than the prisons about which there is at least some public information, have been the human rights abuses with respect to the establishment of secret detention centers and the forced disappearance of terrorist suspects to third countries. News articles, now obliquely confirmed by the President, have alleged that the CIA has been hiding and interrogating detainees at "black sites" – covert prisons set up by the CIA in eight countries, including Thailand, Afghanistan, several unspecified countries in Eastern Europe, and Guantanamo Bay, Cuba[24].

The US does not recognise the Rome Statute of the International Criminal Court (ICC)[25]. As a result, criminal charges in Germany and other European countries against CIA employees and US soldiers for crimes against humanity and massive violations of the prohibition of torture have failed to result in proceedings. The Patriot Act of 2001 was a blueprint for anti-terrorist laws in Europe, which have led to a massive restriction of civil liberties and human rights in the US and worldwide. For example, in France in 2008, a new law on preventive detention was adopted that allowed indefined preventive detention up to one year[26]. After that time, the terms of the detention can be renewed. The law was proposed to fight terrorism, but can be applied against any person considered dangerous. The UN Human Rights Committee and the Commissioner for Human Rights of the Council of Europe consider the law a violation of the right to liberty and security of a person[27]. As an example for challenging a restriction of human rights in the EU, legal researcher Elisabeth Stubbins Bates cites in her report on "Terrorism and International Law" the case *A and Others v Secretary of State for the Home Department* [2004][28], in which the

[19] United Nations, 'Charter of the United Nations' *(UN,* s.a.*)* [Electronic resource]. – Mode of access : http://www.un.org/en/charter-united-nations.

[20] Dr. Alexander Proelß, 'Raum und Umwelt im Völkerrecht' in Wolfgang Graf Vitzthum (ed) Völkerrecht (5th edn, De Gruyter) 354.

[21] Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR).

[22] Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PARTIOT Act 2001).

[23] Military Order of November 13, 2001 Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism (2001).

[24] Sadat, L N, 'Extraordinary rendition, torture and other nightmares from the war on terror.' (2007) 75 George Washington Law Review 16.

[25] Rome Statute of the International Criminal Court (last amended 2010).

[26] Elizabeth Stubbins Bates, Terrorism and International Law: Accountability, Remedies, And Reform (OUP 2011) 127.

[27] ibid

[28] A and Others v Secretary of State for the Home Department [2004] UKHL 56.

House of Lords issued a Declaration of Incompatibility in the UK on grounds of section 4 of the Human Rights Act of 1998[29]. Concerning this, she points out that:

As a result, the government replaced the system of internment with a framework of derogating and non-derogating control orders in the Prevention of Terrorism Act 2005 (as amended in the Counter-Terrorism Act 2008). 'Derogating' means that the control order would involve such a deprivation of liberty or other infringement of rights under the ECHR that the UK would have to derogate from a specific article citing a public emergency[30].

Executive orders are not judicial powers. The Home Secretary must have specific reasonable grounds for the assumption that a person is involved in terrorist activities to conclude that the measures are reasonable to ensure public security.

4.1 The Restriction of Human Rights by Mutual Legal Assistance

The practice of Mutual Legal Assistance also severely restricts civil liberties and human rights and is often regulated only by administrative practice. In many cases, the impact for those affected is devastating. In the Proceeds of Crime Act of 2002[31], section 447 regulates in relation with art. 7(2) of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005[32] that the Crown Court has the power to make restraint orders at the request of any foreign country's criminal investigator. This law allows for Mutual Legal Assistance and the freezing of assets and money of the accused at the request of foreign states in the context of law enforcement abroad. Unfortunately, the law does not distinct whether the requesting state follows the rule of law or violates the absolute prohibition of torture. The possibility of intervention in the fundamental rights of the foreign accused regarding their assets is a discrimination and severe restriction of fundamental rights as arising from the ECHR. To make external requests *de facto* justifiable, the law would need to regulate that the requesting state must demonstrate that it complies with the principles of fair trial as provided by the ECHR or in the UK by the Human Rights Act of 1998[33].

The European Convention on Human Rights and the principles of a constitutional proceeding suggest that a request for Mutual Legal Assistance must be justified and should contain all the relevant information as well as that it is in line with the principles of fair trial. Otherwise, the request must be rejected. An example of this is the case *Director of the Serious Fraud Office v A* [2007][34], in which a Crown Court judge had frozen assets without notice based on a restraint order following the request of an Iranian judge. However, the Iranian judge did not mention in his request that he was a judge in the military court. The English judge released all assets due to the reason that he learned of the non-disclosed fact. The release of the assets was based on the situation that the court saw a serious violation of the Iranian authorities against the "duty of candour" that occurred through the omission of essential information when requesting for legal assistance.

In the fight against international terrorism, EU Member States constantly cooperate with countries that disregard the principles codified in the ECHR and the Charter of Fundamental Rights of the European Union[35], as the example of Uzbekistan shows. Uzbekistan regularly and systematically violates the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[36]. However, under the headline "Dialogue, not sanctions", a new EU-Central Asia strategy was adopted in 2007 under the title "Partnership for the Future"[37]. Based on the fact that in particular the airport in Uzbekistan is logistically needed for the transport of troops to and from Afghanistan[38], a softening of the obligations arising from UN Treaties and the ECHR can be observed on the administrative and political level under the heading of "war on terror".

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[29] Elizabeth Stubbins Bates, Terrorism and International Law: Accountability, Remedies, And Reform (OUP 2011) 136.

[30] ibid

[31] The Proceeds of Crime Act 2002 (POCA 2002) s 447.

[32] 2005 No. 3181 The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005' art 7(2).

[33] Human Rights Act 1998 (HRA 1998)

[34] Director of the Serious Fraud Office v A [2007] EWCA Crim 1927.

[35] Dr. Alexander Proelß, 'Raum und Umwelt im Völkerrecht' in Wolfgang Graf Vitzthum (ed) Völkerrecht (5th edn, De Gruyter 2010) 385 f.

[36] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85 (CAT).

[37] Andrea Schmitz 'Whose Conditionality? The Failure of EU Sanctions on Uzbekistan' (Central Asia-Caucasus Institute Analyst, 11 November 2009) [Electronic resource]. – Mode of access : http://www.cacianalyst.org/publications/analytical-articles/item/11944-analytical-articles-caci-analyst-2009-11-11-art-11944.html.

[38] G Crawford 'EU human rights and democracy promotion in Central Asia: From lofty principles to lowly self-interests' (2008) 9(2) Perspectives on European Politics and Society 188 f.

4.2 The Principle of Fair Trial

A fair trial is a fundamental principle of international law. In recent years, the European Court of Human Rights has issued a number of judgments against the extradition of a person to Uzbekistan that is accused by Uzbekistan as in the case of *Eshonkulov v Russia* [2015][39]. Although the European Court of Human Rights has consistently thwarted attempts by the Uzbekistan government to deport Uzbekistani charged with crimes, the European Union continues to cooperate with states like Uzbekistan that employ torture. Every prisoner in Uzbekistan is at risk of being subjected to torture and of making false confessions that are extracted under torture. For each court that has signed the ECHR this means that the granting of Mutual Legal Assistance including the freezing of assets in the course of an Uzbek investigation violates the principles of a fair trial under Article 3 and Article 6 of the ECHR due to the lack of a fair trial in Uzbekistan as well as the fact that Uzbekistan does not adhere to the fundamental prohibition of torture.

Therefore, confessions and information enforced under torture cannot be allowed in European courts in order to act against a person accused in Uzbekistan on request from Uzbekistan. For this purpose, the House of Lords decided in the cases *A and Ors v Secretary of State for the Home Department (No 2)* [2005][40] and *RB (Algeria) and Anor v Secretary for the Home Department* [2009][41] that evidences extorted under torture or evidences that imply that there is a real risk that confessions were extracted under torture may not be admitted as evidence. Due to the reasons listed above, the Mutual Legal Assistance that countries like Germany, the UK or Luxembourg provide to torturing states is most likely violating international law and the ECHR.

5. Conclusion

The increase in terrorism and associated fear of Islam (Islam phobia) remains a challenge for the application of the ECHR. The new threat of terrorism has led to increasingly frequent calls for restricting civil liberties and fundamental rights. So far, the European Court of Human Rights has prevented this. In particular, rights recognised both by the ECHR and the UN as non-derogable represent a central area of human rights that must be defended at all costs. These are rights described by the Convention that cannot be derogated and where expectations are not allowed. Otherwise, they would violate other international laws. These include crimes against humanity, violation of the prohibition on torture, genocide or extermination of ethnic minorities and the violation of provisions for a fair trial, in particular the abrogation of the general presumption of innocence. An important question that arises for the UK as well as for other European countries and a question that has not finally been decided by the European Court of Human Rights is the question whether responses to calls for assistance in official requests from states that practice torture such as Uzbekistan, China or Egypt is itself a violation of the ECHR. This also includes the question of the legality of giving administrative assistance to freeze assets of people residing in Europe who have been convicted in states that practice torture. Today, it is common practice in Uzbekistan, for example, that no fair trail takes place and systematic torture and the extraction of confessions under torture, or under the threat of torture, occurs. Nevertheless, European countries provide such countries Legal Mutual Assistance on a regular basis and freeze assets of people convicted by these countries. This, however, is a clear breach of the ECHR and its protocols.

On one hand, emerging new threats in a globalised world have led to greater international cooperation and increased the importance of international law. An increasing number of responsibilities are being delegated to international organisations like the UN. On the other hand, in response to the new threat of terrorism, the global security architecture has resulted in the passage of security laws in the United States and Europe that have curtailed civil liberties. The most problematic aspect of the "war on terror" is the attempt by totalitarian regimes to achieve calculated political interests by hiding behind the veil of security threats. Such actions include the massive curtailment of civil liberties and the arbitrary detention of critics and oppositionists. In a series of countries, counterterrorism policy has resulted in a massive restriction of human rights and civil liberties, such as the freedom of press and assembly and the rules for preventive detention, under the pretext of fighting terrorism in recent years. This includes the Russian Federation, the US and Turkey as well as an increasing variety of European countries. European politics justify collaborations with torture states with necessities in the "war on terror". Thereby, the EU does not only lose credibility, but it loses the distance to what distinguishes it from terror and totalitarian systems. With this, the EU relativises its previously as inviolable declared values, such as the absolute prohibition of torture. The return to a principle in which the end justifies the means signifies the return to barba-

[39] Eshonkulov v Russia (2015) Application no. 68900/13 ECtHR .

[40] A and Ors v Secretary of State for the Home Department (No 2) [2005] UKHL 71 [2006] 2 AC 221.

[41] RB (Algeria) and Anor v Secretary for the Home Department [2009] UKHL 10.

rism in which the law is set arbitrarily and human dignity is the subject of arbitrariness. Thus, the state becomes an end in itself where citizens are only a potential risk that is monitored and spied out without the requirement of an initial suspicion. Such a development is the departure from the rule of law towards a preventive state in which there is no dignity and no morality.

Summary

The development of international law is illustrated by the change in the understanding of war and its relationship to politics. The view of war as an instrument of politics was replaced by one in which international organisations and institutions formulated and protected human rights which, in the tradition of the European Enlightenment, were seen as universal and inviolable. Recent threats to human rights have primarily been the result of ethnic wars and the rise of global terrorism. Mutual Legal Assistance restricts the application of human rights by allowing extradition to states engaged in torture. EU states continue to turn a blind eye to states engaged in torture, ignore jurisdictional boundaries and subvert the rule of law. Commitment to universal human rights and the rule of law is necessary to preserve the values of civilisation.

Анотація

Розвиток міжнародного права ілюструється зміною розуміння війни та її зв'язків з політикою. Позиція війни як інструменту політики була замінена тим, в яких міжнародних організаціях та інститутах формулювали і захищали права людини, які, за традицією європейського Просвітництва, вважалися загальними та непорушними. Недавні загрози для прав людини були, в першу чергу, результатом етнічних війн та підйому глобального тероризму. Взаємна правова допомога обмежує застосування прав людини, дозволяє екстрадицію державам, що займаються тортурами. Держави-члени ЄС продовжують пильно стежити за державами, в яких практикують тортури, а положення законів про боротьбу з відмиванням грошей та антитерористичними актами загрожують основним правам на приватність, ігнорують юрисдикційні кордони та обмежують верховенство права. Прихильність загальнолюдським правам та верховенству права необхідна для збереження цінностей цивілізації.

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