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Individual Human Rights and Obligations Towards Communities

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Abstract Tensions and oppositions between the individual and community have accompanied the discourse on human rights from the beginning. I want to first recall how in the UDHR (1948) and in the major human rights treaties, the rights and obligations of individuals are regulated towards communities. I then want to investigate whether the talk of "collective human rights", understood as "third-generation" rights, are of equal value to be set with individual human rights. Against communitarian arguments for the primacy of community-related duties one can stress an expansion of a liberal concept of human rights by the inclusion of justice demands and social human rights. To show that special community needs can be protected and promoted through individual human rights *and national* collective rights, I used the example of the protection of minorities. Finally, I will explain why human rights are not a comprehensive theory of the good and illustrate with this the limits, and also the original strength of human rights. We should not overestimate human rights, but also we should be aware that a sober understanding of human rights is philosophically reasonable, legally possible and politically of great importance.

Keywords Individualism of human rights · Collective rights · Third generation of human rights · Communitarianism · Cultural relativism and universality · Protection of minorities · Social human rights · A sober conception of human rights · Limits and strength of human rights

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1 Introduction

"Human rights" have long been understood solely as individual, liberal rights of defence against state action. This liberal view was often understood to mean that human rights protect only individuals, thereby allowing the enforcement of individual interests at the expense of communities. This interpretation of human rights contradicts traditional conceptions in which a community takes precedence over individual members; individuals exist to help "their" community function well. To generalise, therefore, proponents of "human rights" were accused of protecting and respecting principally, or making admissible only the interests of individuals, and of ignoring the obligations of an individual towards the community. Common good, however, takes precedence over individual wellbeing; the individual should have rights therefore only insofar as they are composed in consideration of the common good, or are compatible with it.

These classic historical tensions and oppositions between the individual and community have accompanied the discourse on human rights from the beginning. Such arguments, or similar ones, have been represented in particular positions by those who want to defend the cultural and religious peculiarities of communities and are threatened by modernisation processes; often, this concerns the protection of minority interests, too. However, these arguments are also expressed by official agencies of some non-Western countries, countries that are trying to defend their supposedly community-based national cultures against Western liberal influences by using arguments based on cultural relativism. From the perspective of such positions, the individualism of human rights is merely a vehicle to undermine the worth-preserving structures of communities and ultimately to *dissolve* them. A similar suspicion is raised in the philosophical dispute between liberalism and communitarianism.

Disputes about the proper regulation of interests between individuals and communities are never resolved. Why is this so? Why can we not find, once and for all, a general solution, like, for example, the structure of the relationship between individual and community? The reason is not, in my opinion, that these ratios vary in complexity, or that any general rules are necessarily abstract and one-sided, that is, that they are convincing in some respects only if contradictory arguments are quashed. The reason, in my opinion, is that a human-rights-based position is necessarily one-sided and constitutively evaluates the subjective rights of all individuals over the interests of the communities on which they depend. Realisation of and respect for individual rights is therefore prioritised, even if common-good-based requirements are perhaps needed. Subjective rights are human rights in the sense that they are the rights of every individual person who gains those rights independent of membership of particular communities as a condition. Therefore, every individual, regardless of "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"[1] is a bearer of human rights. Rights that individual people can, if necessary, invoke to succeed against the communities to which they belong, even against the state in whose

[1] Art. 2 of the Universal Declaration of Human Rights (UDHR).

jurisdiction their human rights are possibly written as fundamental rights. Said bluntly: human rights protect the individual, and not communities.

Because human rights have, in my opinion, this one-sidedness, the concept cannot reasonably be claimed a comprehensive theory of the good and just. The advantages of their one-sidedness, they do pay with the confession not to be a total, comprehensive theory of the good or a common welfare. This means there can now be quite competitive and true arguments that reasonably limit the scope of human rights. In these limiting arguments references to various evaluations are made. A normative theory of human rights is genuinely neither a comprehensive theory of justice (Tugendhat 1993, p. 389), nor a theory of reasonable human nature (Lohmann 2014a) or environmental relationships (Lohmann 2012b), nor even, and this respect is of interest here, a theory of the common good. An enlightened, "sober" concept of human rights must live with these slights to its normative claims. I want to show how it can.

I want to first recall that, just as in the UDHR (1948) and in the major human rights treaties, the rights and obligations of individuals are regulated towards communities, and also, in particular, how in these legal orders the addressees of the obligations arising out of individual human rights are determined (Sect. 2). I then want to investigate whether the talk of "collective human rights", understood as "third-generation" rights, are of equal value to be set with individual human rights, and whether a priority of community-related obligations may be established for individual rights in this way (Sect. 3). The communitarian side has put forward a number of other arguments for the primacy of community-related duties. I will review these arguments and will explain at the same time the expansion of a liberal concept of human rights by the inclusion of justice demands (Sect. 4). To show that special community needs can be protected and promoted through individual human rights *and national* collective rights, I used the example of the protection of minorities.[2] Finally, I will explain why human rights are not a comprehensive theory of the good and illustrate with this the limits and also the original strength of human rights. We should not overestimate human rights, but also we should be aware that a sober understanding of human rights is philosophically reasonable, legally possible and politically of great importance (Sect. 5).

2 Rights and Obligations Arising from Individual Human Rights

As stressed from the beginning of these lectures, human rights have three, non-consecutive, reducible dimensions: moral, legal and politico-historical (Lohmann 2008, 2010a). The motivations for them are the historical processes of fighting against grave injustices and "crimes against humanity", and they have been (since the Second World War) *internationally* politically determined, legally drafted and morally justifiable human rights awarded in the same manner to every human being on the basis of his or her human dignity (Lohmann 2012a, 2013a). Philosophical reflections on human rights should methodically start with an interpretation of legal

[2] In detail see Lohman (2004).

international human rights documents. For simplicity, I will limit myself here to the UDHR of 1948 and the two human rights covenants of 1966 [International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR)]. In them "individual rights and obligations" and "duties to the community" are mentioned in a more revealing way, so that for a first understanding these human rights documents are to be used.

The thirty articles of the UDHR are, after the preamble's introductory remarks regarding the normative and historical context of origin and the goal of the declaration, usually called *Everyone's Rights* ("Everyone has the right […]", "No one shall […]"). This pattern varies only at the beginning of Article 1, which formulates the normative basis of the UDHR, and the last three articles (Articles 28, 29, 30), which formulate statements of the whole of the declaration and of all individual human rights together. Each of the twenty-six *Everyone's Articles* always formulates only individual rights of the individual and says nothing of an individual's responsibilities and duties, while, though the other four articles do make mention of "obligations", these obligations are of a different degree and should be treated with more detail and complexity than is possible here.

Article 1 says that "All human beings […] should act towards one another in a spirit of brotherhood". Article 22 and Article 28 can be used as explanations of the content and degree of this "should". In them, "economic, social and cultural rights" (Article 22) are addressed or implied; they should be regarded as a legal explication of demands for "brotherhood", solidarity and a "life of dignity", that, since the French revolution and the socialist movements of the nineteenth century, have accompanied liberal human rights declarations in a critical way. (Giegerich 2008; Lohmann 2014b). Although in many ways this "should" is extremely interesting and important, it will not be treated here specifically as it relates to social obligations—should individuals control acts towards all people, or the "community of all people" (Preamble of the UDHR), *when* it recognises everyone as "equal in dignity and rights".[3] Instead I focus below on obligations towards communities (in the plural), which everyone has after the UDHR; in this respect Article 29 is relevant.

In Article 29 community concerns are twice put in relation to individual rights. Article 29.1 states that: "Everyone has duties to the community in which alone the free and full development of his personality is possible." Article 29.2 states that: "In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society." Three things are crucial here:

1. *Neither* formulation says that individual rights may be restricted in favour of *any* community. That is, it is not stated that *any* community could impose direct obligations on the holders of human rights to, for example, contribute to the

[3] In detail see Lohmann (2013a).

self-preservation of the community or to the contingent provisions of their respective public welfare, etc.

2. Rather, pursuant to Article 29.1, everyone has duties to only a highly qualified community, namely "in which *alone the free and full development of his personality* is possible." What duties exactly are relevant here is not stated, but they must refer to a particularly qualified community in which the individual freedom of everyone is constitutively recognised.
3. The obligations which a bearer of rights has in exercising his rights assert themselves as restrictions on freedoms legally granted. And in this sense Article 29.2 explains the limitations to which "everyone shall be subject". Very important here is that these restrictions must first be "determined by law", which means that they have to be formally established by a legal act. This a priori *excludes* all purely moral obligations or those that arise directly from cultural-ethical values, unless they are covered by a legitimate law legally in force! The issuance of legitimate legislative law (and purely *natural law* or *law of reason* interpretations are thus repelled!), is now further determined, thus imposing restrictions on sovereign lawmakers! The statutory limitation of human rights freedoms is only legitimate if they have been made "*solely for the purpose* of securing due recognition and respect for the rights and freedoms of others". This condition "must"[4] be understood as referring to the legal freedom of *all* others, or *any* other, not just *a few others. And* in addition they must all be secured in the same (equal) manner.

It is reminiscent of Kant's morally motivated determination of the concept of "right": "Right, … comprehends the whole of the conditions, under which the voluntary actions of any one Person can be harmonised in reality with the voluntary actions of every other Person, according to a universal Law of Freedom." (Kant 1887, p. 45). So this restriction is general and formal and therefore needs to be fleshed with content and morally justifiable concretised.

Therefore, I understand the list that starts with the word "and" in Article 29.2 as a list of three explanatory specifications of these legal restrictions: "meeting the just requirements of morality" stands for justice, "public order" stands for security, and "general welfare in a democratic society" stands for a democratically determined common good. What makes them philosophically interesting is that they are content or substantial values which are at the same time interpreted values of specific communities. And also the provision of the "just requirement*s* of morality" (which are not without meaning in the plural) is not to be understood without particularly different cultural values. Therefore, all three relate to values in the dimensions of morality, culture and ethics, *which are not yet legalised values of the good life in a society*. As content specifications of the general, formal legal restrictions mentioned above, they are not defined by moral, anthropological or historico-social theories, but they "arise" only as a result of a democratic legislative process. Therefore, the "general welfare" is not a general welfare of *a* society as such or of *any undetermined* society, but of a "democratic society" only, i.e. a society in which the

[4] One can say: "must" in a moral, universal and egalitarian sense.

addressees of the law can act also as the (co-)authors of the law. Only under these conditions can the formal constraints on individual freedom be therefore concretised and express a democratic given content. We shall return to this important point later.

To summarise: A first look at the UDHR shows that the relationships between individual human rights and obligations for the benefit of communities in it are well formulated. The argument put forward in the 1990s, which because the UDHR speaks only of the rights of individuals who do not take into account the requirements of the people, it should therefore be supplemented or corrected by a *Universal Declaration of Human Duties*, was erroneous and obsolete (Lohmann 1998a). However, the UDHR does speak of community-based obligations in a particular and special way. The only obligations or legal restrictions required are those that arise from a democratic law-giving procedure which respects the equal freedom of all others. Communities as such are not protected, and the common good has to be respected by individual obligations, only if it is compatible with a democratic society.

Let us look at these first considerations of the two human rights covenants of 1966, mentioned earlier. At first glance, (and despite all the differences between the two covenants) in each the Parties explicitly speak of obligations accrued from the declared recognition of individual human rights, which again makes it clear that from the perspective of international law, *they* are the first duty addressees of individual human rights, and not all other people! Human rights generate in general, therefore, not moral obligations towards all people, but legally enforceable obligations (i.e., "legal obligations" in the Kantian sense of the word) that are imposed on the states. Since there can be no enforceable legal obligations against oneself, if only for conceptual reasons, in the dimension of law all obligations towards oneself are omitted: If you are a bearer of human rights, you must not be a moral person!

But both covenants take up what was formulated in Article 29 of the UDHR, with almost analogous formulations in each preamble: "Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognised in the present Covenant." The verification of these weak law obligations, which are rather vague moral duties towards others and the common good, is placed in the hands of the state's parties. They correspond to what in the first lectures was called the "horizontal effect" of human rights (Günther 2010). By the state this "horizontal effect" is mandatory in the preambles (as in the UDHR) and supported by the establishment of human rights education (Fritzsche 2012), which is then organised by UNESCO.

Advocates of community-related duties that they want to know weighted against the individual rights, therefore, do not get really supportive evidence if they refer to the two covenants of 1966. And so it is not surprising that they were looking for another chance to support communities as such. And in fact, there is this talk of human rights as collective rights, the so-called human rights of the "third generation".

3 Human Rights of the "Third Generation": Rights of Collective Self-Determination and Obligations for the Benefit of Communities

The history of human rights since the First World War, since Woodrow Wilson proclaimed the "Fourteen Points" in 1918, is accompanied by the demand for the self-determination of peoples. This right is a collective right, even if the term "people" (Wilson speaks of "nation") remained relatively unclear. Although the idea of self-determination in the founding of the UN played an important role and is, after all, mentioned in the UN Charter (Article 1, paragraph 2 and Article 55), it does not appear in the UDHR of 1948 (due to objections by the colonial powers). Only through efforts of the communist states and the liberation struggles of the colonial countries it is explicitly formulated in a UN Security Council resolution (No. 1514, 1960): "All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Through the international covenants of 1966 (ICCPR; ICESCR) mentioned above, it has been resumed in Article 1 in binding international human rights conventions. The *Banjul Charter on Human Rights and Rights of Peoples* (1981) then provides individual human rights and self-determination of peoples on an equal footing.

For Woodrow Wilson the self-determination of peoples was connected with democracy and liberal protection of the individual. But this relationship was loose and unclear in the UN conventions just mentioned, and very broad in regard to the way the self-determination of peoples and individual rights are related to each other. Rhetorically, it was often the case that they should be understood as equal indicators, and in fact allowed the formulations a primacy of collective self-determination before the individual rights of the individual. This trend was reinforced by the declaration of another collective "rights", such as the *Human Right to Development* (1981 recognised by the UN General Assembly), the *Human Right to Peace* (formally announced in 1984) and the requirement for a *Human Right to a Natural Environment*. Since Karel Vasak's proposal, one speaks in this context of "third-generation human rights" (Vasak 1977) (The "first generation" are rights of liberal and political freedoms, the "second generation" are social rights). Now, this "third-generation" formulates solidarity rights among peoples. Initially these rights are collective rights.

Under a "collective right" I understand here, regardless of further differentiations, a right whose bearer is a collective, just as an "individual right" is a right whose bearer is an individual. As human rights appear to be universal, egalitarian and categorical rights, I think that one can justify that this applies only between and for individuals, but not between individuals and collectives, or between different collectives. So that the demand for "collective human rights" appears at first glance to be a conceptual error. And a moral reasoning that they could equate individual human rights, is in my opinion, nowhere to be seen either (Lohmann 2004).

So with other legal scholars (Riedel 1989; Weiß 2012) one can argue that we should not talk of "*collective* human rights" as *genuine* Human Rights. But of course there are "collective *rights*" on the lower level of simple law. Even if

collective rights are not Human Rights, they can have important political weight and they function properly as rights in international and domestic national law. First, we claimed a right to (collective) self-determination of the peoples who fought against the Western colonial powers for their national independence. And when it comes to the protection of minorities, collective self-determination rights are invoked. In the case of ethnic minorities, however, it is controversial to question perhaps to what extent "self-determination" is understood here. In most cases the granting and protection of cultural and internal autonomy are included, whereas it is an open question as to whether any and, if so, under what conditions, a collectivity has a right to secession.

Finally, in communitarian critiques of a liberal and individualistic understanding of human rights, it is argued that "collective rights" should have a proper standing. This critique accuses the liberal position of being blind towards the particular problems of cultural and ethnic communities whose interests may be therefore better protected through collective rights.

4 Individual and the Community: Inequality and Justice

I will try to refute this last objection. The libertarian view is understood by the communitarian side as, firstly, that human rights protect the interests of autonomous and self-sufficient individuals, and secondly, that individual rights only create negative obligations of others, thus correspond to injunctive actions and that, thirdly, the addressee of the obligations, the State, is bound to neutrality in the exercise of these obligations. That is, it is forbidden to protect individual interests differently with regard to cultural, religious or other means of evaluation.

In liberal societies the rights of the individual generally have priority over community interests, but it is not necessarily the case in traditional communities. We must ask, therefore, how should, from the position of individual human rights, such problems be handled within non-liberal communities?

From the liberal point of view communities are protected by the individual rights of each person, so that the necessary, common conditions of its identity formation are protected, but there is not a right to the protection of certain communities as such, a kind of cultural "species conservation" (Habermas 1993, p. 173). This last opinion is represented by, for example, Alasdair MacIntyre (1984) when he assumes that a person only gains a narrative identity and unity of life if he or she remains embedded in the interactions, and in each case with the recognition of her or his community. MacIntyre assumes therefore the priority protection traditionally given communities, and ultimately the primacy of Community Good, against the liberal, subjective rights of individuals. His argument is that to secure a certain conception of subjective identity it is better to protect a given community for its own sake. Legally this means seeing the community as a bearer of rights (See also Taylor 1999).

But this theoretical approach to subjective identity formation seems implausible. In modern societies, we are born into quite heterogeneous and even conflicting communities, so the questions "Who am I?" or "What's your story?" can no longer

be answered with reference to *one* factual historical community or a harmonious common tradition; the situation for us is non-uniform and possibly contradictory. It requires a choice by us (Feinberg 1990, p. 93; Sen 2006). The answer depends on what we want to do, to which community we continue to feel a sense of belonging, and with which we want to break affiliation. Therefore, the subjective rights of individuals, including the right to pursue belonging to a given cultural community, or to leave it, in the way they want, is brought to our attention. Of course, they have to respect the individual rights of other persons (Lohmann 2013a, b).

The last condition corresponds to the condition under which community-based duties after the UDHR are allowed. It leads to the requirement that the rights of all must be impartially, i.e. neutrally, observed, and it is this principle of neutrality of the liberal constitutional state that is seen as distorting or as insufficient for the necessary protection or promotion of communities. In contrast, it should be stressed that the liberal position, because it protects individual freedom, "therefore also insists on the right of small subcommunities to grow in rich and diverse profusion. […] The corollary of the doctrine that individuals must be left free within the zone of their autonomy, […] is that the communities of individuals must also be left free in their coordinated activities" (Feinberg 1990, p. 121). Conflicting requirements of different communities and between communities and individuals do not differ from the usual conflicts between individuals. Again, a one-sided interpretation of the abstract legal neutrality commandment in the conflict resolution does not resolve existing inequalities. Therefore, the *realisation of individual rights* in liberal democracy is also subject to a *realisation of justice*, and it is an implication of this requirement of a legitimate, i.e. just settlement of conflicts of law that existing inequalities or injustices are compensated for. This aspect could be invalidated only with the help of an objection that legal neutrality is solidifying existing inequalities (Habermas 1993, p. 171).

A liberal conception of human rights, sensitised to social inequalities, that takes the idea of the brotherhood seriously, must concede that individual human correspond not just to negative obligations, but also to the very positive obligations of protection and assistance (Shue 1996). Human rights must realise a *certain* conception of justice (Tugendhat 1993, p. 389; Gosepath 1998). On the one hand, neutrality offered by the state works against negative discrimination, but on the other hand the state must practice positive discrimination in some cases, e.g., unequally distributed funding to improve the situation of disadvantaged people. But to what extent are these positive obligations to be complied with? It is not just a moral issue, it requires the political realisation of a balance between a moralised public, the rule of law, human rights and the realisation of justice (Lohmann 1998b, p. 92, 2015).

So, this final condition, mentioned above, is adamant that Community obligations, individual rights and substantive justice demands require a particular democratic law-giving process to be determined. But the democratic legislative process must not contradict the universal claims of human rights. This would lead, as I have shown, to the tensions between democracy and human rights (Lohmann 2011).

5 Benefits and Limitations of Community Protection by Individual Human Rights

The considerations above show that demands for human rights that have collectives as carrier, are not justified to have the same weight as individual human rights. Therefore talk of collective human rights is conceptually misleading. The obligations associated with them: demands for respect, protection and promotion of communities, especially ethnic minorities, are to a large extent reached by observing unabridged individual human rights, which are extended to social rights too. For this purpose, it was emphasised to reject purely libertarian understandings of human rights, which should then correspond only negative obligations. Instead are, under the compulsory claim of duties to respect, to protect and to assist human rights, to take an improved institutionalisation of economic, cultural and social human rights in attack.

In special cases, however, collective rights to protect vulnerable minorities are meaningful and also justifiable where through inequality (rather than equality) a better form of justice can be realised. These collective rights are not on the level of human rights, but are national or domestic rights, which may act, for example, in reverse as "reactive discrimination". But they stand with the reservation to not violate individual human rights, prohibiting plain discrimination in particular. So speaking of "reactive discrimination" seems contradictory. The resolution of this apparent contradiction lies in the distinction of different levels: at a basic level, there is no justifiable "primary discrimination": All people have by virtue of their individual human dignity equal claims on subjective sponsorship of human rights. On the basis of this fundamental legal equality of all, on a different level, a legitimate, substantive limitation or unequal treatment of some rights and freedoms of all are possible. But this "secondary discrimination"[5] in favour of some communities come about by "law" on the basis of a common political will decision of all concerned. Citizens must, therefore, in a public opinion and decision-making process agree on how much and for whom the same rights and freedoms may be restricted by law.

Limitations of individual rights in favour of community-based ratings are possible through formal egalitarian measures if, as implied in Article 27 of the UDHR, they are specified in a democratic process by the person affected by the law (see above under 2). The ratings, which may have been subsumed under the subject headings, "morality", "public order" and "general welfare", may have completely different natures. In many cases they can be part of a comprehensive conception of a common good life, which cannot be divided, like in the liberal interpretation, into a theory of the good and of the just. In the public debate in modern societies, there is a pluralism of competing, different comprehensive conceptions of values, they may occur as a religious or philosophical conceptions of the good. And one has to accept them, among other concepts in the formation of public opinion. But none can be considered as the sole design of a comprehensive good. As I have argued in these lectures, human rights are certainly incompatible with many explicit or covert

[5] For the distinction of "primary" and "secondary discrimination" see Tugendhat (1993), p. 375.

absolute claims (See also Lohmann 2014c). And so, just as they have historically fought against absolute conceptions, human rights demand even today a cultural adaptation and change process for the individual rights of all individuals to be respected.

Comprehensive conceptions of the good therefore cannot *directly* claim a particular substantive restriction of human rights or curb primary duty in favour of the community, it must be done through a democratic procedure of opinion and will formation, and a bid for a corresponding majority for legislation. In this field, public debate may affect a person's internal character, possibly because of pressure to secularise their argumentations (Habermas 2005).

Therefore, the restriction of civil liberties and the expansion of duties for the benefit of communities and community-based values are themselves subject to a dual control and limitation. First, national constitutional courts as well as the international legal institutionalisation of human rights itself represent legal and political correctives. They control the regulations in a country by the respective constitutions and by possible intervention by the international community. Especially important here are the transnational, regional and international human rights courts. But also important are the, albeit weakly institutionalised, different UN rapporteurs, and the international organisations reviewing and the monitoring the human rights covenants and conventions of the *Human Rights Council* in Geneva (Schmahl 2012).

Second, but even these international institutional arrangements as well as national legal regulations still remain the focus of a moral criticism. All legal and political arrangements of human rights and the human rights policy, national or international, cannot *replace* the moral requirements for reasons and the qualified universal claims (see the first lecture) that are connected conceptually and systematically with human rights. They remain open to moral reasoning, demands and criticism. Their political power often depends on the commitment of Non-Governmental Organisations (NGOs) (Mihr 2012), but their argumentative value is based on justifiable arguments. In this respect, human rights should be the last word in the deliberate and sensitive public sphere, even as it is now stretched out into global dimensions, just as it did in the early history of human rights.[6]

But one should not overestimate this moral dimension of Human Rights. Human rights themselves, especially, should not be moralised. They are, properly understood, legal rights and I therefore argued in these lectures for a "sober" conception of human rights.

Because human rights are designed for the protection of all isolated individuals, it must be accepted that they are not the sole consideration in all situations, for example, when it comes to securing peace between states, or when environmental issues have to be solved (Lohmann 2012a, b). But they are thus not delivered an unprincipled and opportunistic relativism. Here again, the democratic shortcomings of the international conception of human rights become obvious. Such trade-offs should take place under the condition that the same political and other rights of each

[6] This of course are also reasons and motives to establish a transnational conception of human rights as explained in the first lecture.

individual are observed, i.e. that they are either the result of a political democratic process or at least support the assumption that they were. "The" human rights therefore formulate not an absolute, comprehensive theory of the good and therefore, quite contrary to an often expressed view, neither are they the final word in all normative questions. Perhaps this hurts our confidence in the Absolute, but it also makes us aware that everything, "finally", is the work of humans (Lohmann 2014d). Human rights are historical projects, and there is no absolute grantee or institution, which they just become realised automatically. They remain a challenge for argumentations and political struggles over the proper organisation of legal systems.

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