Call for Papers

Critical Approaches to European Human Rights Law

Hertie School, Berlin

17 January 2025

With this workshop, we aim to provide a forum for critical reflection on the European Convention on Human Rights (ECHR) and the European Court of Human Rights (ECtHR). The practical relevance of human rights language has continued unabated for several decades now. Alongside the rise of human rights, trenchant critiques have been offered. These have foregrounded, for example, the coloniality of human rights, their role in cementing rather than challenging the status quo, and the limitations of who gets to speak in the name of human rights (Venthan Ananthavinayagan & Theilen 2024; see e.g. Mutua 2001; Kapur 2002; Baxi 2008; Marks 2011; D'Souza 2018).

While critical accounts of human rights often acknowledge their use for emancipatory aims by social movements or community activism, they particularly highlight their limits in institutionalised and judicialised settings (O'Connell 2018; McNeilly 2019). The ECtHR could be considered a paradigmatic example of strongly judicialised human rights. Nonetheless, critical accounts that focus specifically on European human rights law have been scarce. Despite long-standing debates about method and different perspectives (Dembour 2006; Gonzalez Salzberg & Hodson 2020; Gerards, Erken & Loven 2023), most scholarship on the ECHR remains doctrinal or, increasingly, quantitative. Rather than seeing European contributions to human rights as ambivalent (Çalı 2023), large parts of scholarship continue to depart from the unspoken assumption that European human rights law constitutes a fundamentally benign project.

Meanwhile, historically oriented scholarship on the ECHR and ECtHR has laid bare their foundational entanglements with European conservatism, colonialism, and national sovereignty (Duranti 2017; Reynolds 2017; Demir-Gürsel 2021). Strong critical traditions have also developed with a view to challenging the ECtHR's approach to particular topics such as gender and sexuality (Theilen 2018; Gonzalez Salzberg 2019; Kapur 2020; O'Hara 2021), migration (Dembour 2015; de Vries & Spijkerboer 2021), secularism and religiosity (Danchin 2011; Demir-Gürsel 2013; Kapur 2020), or carcerality (Lavrysen & Mavronicola 2020; Pinto 2023; Tapia Tapia 2023). However, the implications of these critical accounts for how we approach European human rights law as a whole remain relatively underexplored. With some

exceptions, even many critical accounts do not take the step from critique of the ECtHR's case-law to critique of the ECtHR itself and of European human rights law.

We would like to push this boundary by further developing critical approaches to European human rights law as a whole. Taking the various critical traditions on particular human rights themes as a starting point, we aim to broaden the conversation and consider their implications for how we think about the ECHR and the ECtHR more generally. How might a Marxist critique of courts, a queer critique of rights, or a decolonial critique of the notion of "Europe" shift our understanding of the European project of human rights?

To this end, we also welcome contributions that deconstruct and challenge dominant framings (Butler 2016) of the ECHR and the ECtHR in order to shake up assumptions about their role for emancipatory politics. How does scholarship frame the ECHR and the ECtHR? How can we challenge the framings of existing scholarship? Framings to critically analyse might include conceiving of the ECtHR as a successful court (particularly in comparison to human rights courts in other regions), as an agent of progress, or as a strategic actor focussed on institutional continuity. They might involve common tropes like legitimacy management or incrementalist change. How are such framings of the ECtHR normalised and naturalised within scholarship, what role does emotional attachment to human rights play in upholding them, and what are their politics?

Building on these discussions, we are also interested in debating what comes after critique – or indeed "after rights" (Sokhi-Bulley 2024; Odysseos 2024) – specifically in the context of European human rights law with its high measure of institutionalisation and judicialisation. What insights can we gain from an engagement with notions like rights redemptionism (Golder 2014) and cruel optimism (Berlant 2011)? How should we engage with the dangers of both false necessity and false contingency (Marks 2009) in the context of European human rights law?

In brief, we would like to debate the direction(s) that critical scholarship on the ECHR and the ECtHR could or should take. We hope that the workshop will serve to inaugurate a loose research network for thinking critically about European human rights law.

Submissions and Logistics

We invite presentations that engage in any way with the theme as described above. The workshop will take place at the Hertie School in Berlin on 17 January 2025. It is planned primarily as an in-person workshop, but online participation will also be possible if strictly necessary.

Participants will be asked to submit a short think piece ahead of the workshop as a basis for discussion. We are planning a joint publication afterwards and will discuss the specifics together during the workshop itself. Participation in the subsequent publication is not a prerequisite for participation in the workshop.

Due to the support of the Volkswagen Foundation as part of the project "Framing Reality and Normativity in European Human Rights Law", we have some funds available and are therefore able to cover accommodation costs for those attending in person. We cannot guarantee further financial support (e.g. travel costs) but will try to support those who do not have access to institutional funding. We would ask participants who do have institutional support to make use of other funding opportunities if possible.

Please send your **abstract of around 500 words** in a PDF file with your name, affiliation, and e-mail address to e.guersel@hertie-school.org **by 8 July 2024**. Please indicate in your application whether you can participate in person and if you need financial support for your travel costs. Those accepted for participation will be notified by 31 July 2024.

Workshop Organisers

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