Politics of Human Rights I

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Structure

1. What are human rights?
2. Political science
3. Studying the state
4. Human rights agency
5. Methodologies
6. Social science theory
7. Measurement and human rights impact assessment
What are human rights?

• The scope of rights – International Bill of Human Rights
• Universal and regional instruments and institutions
  – Global vs. regional studies and comparisons? Universality/relative
• Positive and negative dimensions of (all) HR
  – Provisions of resources and outcomes of policies enforcing HR
  – Practices that violate HR
• New rights evolving?
What is political science

• Science politique, political science, Staatswissenschaft

• Roots: Plato (424 BCE; Republic); Aristotle (Politics - built on historical-empirical evidence; comparisons, typologies); Chanakya (c. 370–283 BCE, teacher of Chandragupta Maurya), Ancient China (Mohism (Mozi), 430 BCE) etc.

• Main orientation: The study of political behaviour, political institutions and systems, and the practices of politics

• Politics versus policy, governance vs. government

• Sub-fields: Public policy, international politics, institutional studies, comparative political studies

• The centrality of POWER, and particularly STATE POWER

• Numerous approaches: positivism, rational choice theory, behaviorism, structuralism, realism, institutionalism etc.

• Explain variations - similarities and differences
Why study human rights from a social science perspective?

1. Explanation and understanding of HR as social phenomena
2. Comparative analysis to make generalizations: under what conditions do certain HR phenomena exist or occur? (e.g. regime analysis); Inferences
3. By applying social science methodology – reduce uncertainty, develop more robust knowledge.
4. No danger of doing social science research about normative issues as long as values do not influence the research process
Studying the state

What is a state?

– One of many forms of organising government in communities
– Different conceptions of the state
– Different conceptions of the legitimate scope of the state: Left - Right
– A working definition (Oxford Concise Dictionary of Politics):
  “The state is a distinct set of political institutions whose specific concern is with the organisation of domination, in the name of the common interest, within a delimited territory”. A good definition?
– Legitimate power (internal, external); territorial control (?)
– State vs. political regime; the nature of the political institutions of a state
– State legitimacy and human rights
– State efficiency and human rights

Max Weber (1864-1920):

– The state is the entity which possesses a monopoly on the legitimate use of physical force; politics derives from power (to influence the relative distribution of force)
Studying the state, cont’d

– Recent development – today universal, vary hugely
  • Territory, people, sovereignty - state sovereignty (1648) vs popular sovereignty (1789), post 1948/70s – human rights?
  • State formation and class struggles, hegemonies
  • Today: the state an organisation that issues and enforces binding rules for people within a territory
  • State legitimacy – exit, voice, loyalty (Hirschman)

– Modern state development: Stages, critical junctures (Stein Rokkan 1921-79)
  • State formation - penetration
  • Nation-building - standardisation
  • Mass democracies – participation
  • Welfare states – redistribution

– State evolution and rights extension: the incorporation theory
Human rights agency – state and non-state

• The centrality of the “S”tate in HR: the state and the “non-state”

• Who are human rights actors I?
  – State agents: Individuals? Professions?
  – Political agents in public Institutions: Political accountability?
  – Accountability: Direct and indirect responsibilities for HR

• Who are human rights actors II?
  – Not-for-profit: networking and alliances in domesticating international norms
  – Direct and indirect responsibilities for HR
Methodologies

• Human rights as an object of enquiry
  – Normative vs/and empirical
  – Methodological pluralism

• Key issues
  – The epistemological continuum
    • Universal vs. particular
    • Inductive vs. deductive
  – Coverage of studies
    • Case studies (sub-national units, single countries)
    • Multiple comparisons
    • The ladder of abstraction: empirical/statistical generalisations? Theoretical generalisations
  – Quantitative vs. qualitative approaches and evidence
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<thead>
<tr>
<th>Range</th>
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</thead>
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<tr>
<td>TYPE OF APPROACH</td>
<td>HERMENEUTIC, THICK DESCRIPTION</td>
<td>DISCOURSE ANALYSIS</td>
<td>THEORY-DRIVEN EMPIRICAL</td>
<td>THEORY-DRIVEN EMPIRICAL</td>
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<td>Reasoning</td>
<td>Inductive (Understand)</td>
<td>Inductive and analytical (Inter/reinterpret)</td>
<td>Inductive and analytical (Explain)</td>
<td>Inductive and analytical (Explain)</td>
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<td>Evidence vs. inference</td>
<td>Evidence without inference</td>
<td>Meaning and understanding from language and action</td>
<td>Qualitative evidence and inference</td>
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<td>Nature of knowledge claim</td>
<td>Particular Context specific</td>
<td>Particular Context specific</td>
<td>Universal with room for exceptions</td>
<td>Universal with room for exceptions</td>
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<td>Scope of coverage</td>
<td>Single countries Sub-national</td>
<td>Single countries Limited comparison</td>
<td>Comparative and single case analysis</td>
<td>Comparative</td>
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<td>Examples</td>
<td>Understand torture</td>
<td>Competing discourses, apartheid</td>
<td>HR trend singe case</td>
<td>HR trends, comparative</td>
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Comparative analysis

• Provides ways to compare countries to arrive a generalisations about HR problems

• Three methods:
  – Statistical comparative analysis: Large N, generalisations
  – Few country comparisons; quantitative and qualitative
  – Single-country studies (one-case studies): in-depth

• Choice of method:
  – Purpose of the analysis; explain or understand/interpret
  – Thick – thin analysis: case versus variable orientation (in-depth vs “overall” analysis)
  – Problems:
    • Data availability: often a problem in statistical analysis, limited scope of HR: Freedom House, etc.
    • Validity and reliability problems
Quantitative vs. qualitative approaches and evidence

- Quantitative – show differences in number between certain objects of analysis: How many HRV are there? Which variables account for variation in HRV? **Example:** fewer cases of torture in established democracies than in new democracies
  - Statistical
  - Bivariate analysis, e.g. strong relationship between formal education and income
  - More complex, multivariate relationships: Education and income, add age

- Qualitative – identify the characteristics and specific *traits* of an object, and understand the meaning, processes and context. Narratives, process tracking
  **Example:** The role of *Article 19* enhance access to information in country X
The issue: social science theory

• Social sciences - research orientation:
  – Empirical: Why, how, when and where (comparative)
  – Normative-empirical: Empirical studies of normative issues
    • E.g. human rights studies, democracy studies

• Diversity in approaches, combinations
  – Rationalism Agency
  – Structuralism Structures, institutions, markets
  – Culturalism Belief systems, traditions

• Differ in level of analysis, hypotheses, units of analysis
Rationalism

Rational choice, game theory, public choice

– Intentionality, meaningful agency
– Rationality
  • Self interest, preferences, utility maximization, autonomy
  • The role of social norms?
– Social consequences, outcomes of individual choices:
  • Logic of Collective Action: Public Goods and the Theory of Groups (Mancur Olson, 1965)
  • Game theory: Free rider dilemma, yet people organise!
    – Nested games (G. Tsebelis, 1990)
  • Why do torturers torture?
  • Regime transition: “Games” of hard-liners and reformers
Structuralism

• How do institutions, collective units influence developments and conditions for human rights
  – Social class; conflict entrepreneurs, “state-builders”, the clergy, landowners, peasants, workers
  – Other structural factors? Institutions – regime types, geography, culture
  – Focus on social and political power and HR as outcome of struggles
    • Political economy: How do economic interest and power influence political and human rights outcome?
  – Main dictum:
    • Individuals are embedded in relationships, dependencies, social contexts that provide conditions for human rights fulfilment

• Examples: Poverty, climate change, markets, globalisation
• Longue durée studies : The classical model of Richard P. Claude (1976)
Cultural

Similarities with structural approaches but focus on

– Shared meanings, inter-subjective understandings and norms that develop between collectives of individuals (groups) and some times states (regional studies)
  • Identities are shaped by culture, customs, traditions
  • Relativism/universalism debate, e.g. radical relativisms
  • Uniqueness vs. commonality
  • Discourses and the “translation” and interpretation of meanings in contexts: discursive power about the world, incl. rights

– Symbols and production of meaning and identity; “togetherness”, social trust, social capital

– The Clash of Civilization hypothesis
Human rights as protection against societal threats


- Societal threats and dangers explain human rights
- A right: “a rationally justified demand for social guarantees against standard threats”
- A standard threat is a threat against basic rights, that is, rights that we need to have in order to enjoy other rights
- Shue consider key human rights to security and rights to be basic subsistence rights: civil and social rights
- Basic rights protected by social guarantees, for instance: laws, a judiciary, schools, media, NGOs
Measurement and human rights impact assessment

– Main purpose: To measure whether / the degree of which a human rights is respected, protected or fulfilled
– Scales: ranking (yes/no; degrees), depending on the right
– Increased interest in human rights impact assessment from the mid 1990s; HRBAD discourse
– Trend: linking human rights awareness and critique to international development and foreign policy
– Monitoring bodies: How to advance human rights in countries; which indicators are feasible: human rights indicators
– Human rights indicators are tools for states to assess their own progress in implementing human rights
– The role of the OHCHR
Measurement, cont’d

–The development of human rights indicators: the OHCHR
  • Some rights are easily to count others not
  • Civil and political rights vs. (some) economic and social rights
  • The issue of judiciability
  • Progressive realisation
Impact assessment:

1. What is it?

Impact assessment of human rights “interventions”

- to *document* the impact of policies and “interventions”: What works?
- to *measure* the level of impact (scales): How well does it work?
- to be sure that measurement is *attributable* to particular policies and development measures. Does it work, or spurious effects, accidental?

**Dilemmas**

- The complexity if situation/context
- The uncertainty of sustaining impact
- The complexity of the issue: confronting social, economic and political power and interests
2. Dimensions of human rights impact

– Direct/indirect
– Institutional/communal/individual
– Creating awareness/creating changes in behaviour
– Short-term impact (lobby decisions) versus long term impact (institutional)
– Ex ante impact (before a project; anticipation) versus Ex post impact (after a project)
– Impact of first (individual level) and second order (institutional level)

Dilemma:

• Measuring the sustainability of impact (changes)
• Human rights impact requires “continuous” (on-going) interventions? The right to education, police behaviour
3. Impact to achieve what?

- Impact of projects ("interventions") on human rights (law) enforcement:
  - rights awareness
  - power to make human rights claims
  - institutional behaviour, political decisions

- Assess effectiveness and efficiency of *project mechanisms* in achieving impact: Forms and substance
  - Investment in infrastructure (school buildings)燊
  - Training and education, awareness

*Dilemma*

- The problem of attribution:
  - to attribute changes in human rights practices and enforcement to specific project interventions
4. What is being measured?

• Compliance of the state with international human rights standards (state obligations)
• Rights awareness and the use of rights by rights-holders (individuals, groups)
• Progressive fulfillment of rights: the challenge of the time factor, and benchmarks
• Measure the impact of achievements through the various stages of a particular intervention process
• The importance of matching between indicators used and the objectives they are measuring: Rights-based indicators need not be different from “standard” development indicators
5. Confusing output with impact?

**Output** is

- tools and mechanisms for achieving impact (workshops, pamphlets, information, legal training, legal advice etc)

**Human rights impact** is

- value *added* to output; change in laws and customs (e.g. reasonable equality), behavior, institutional codes of conduct
- being measured in terms of improved protection of a particular right, or cluster of rights, for a target group (beneficiaries)
  - Rates of human rights violation, e.g. torture, drop out from elementary schools
- people’s capacity and competence to make use of their rights
6. Expected advantages of HR impact assessment

- Document effects: Does HR policy work?
- Learning: contribute to better planning, design, effects
- Help to make priorities, and institutional profile
- Assist human rights monitoring bodies