

FROM ‘RIGHTS BEARERS’ TO ‘RIGHTS BEGGARS’

THE PRACTICE OF HUMAN RIGHTS

UNDER THE RULE OF CORRUPTION

A theoretical argument on how dark social capital converts basic human rights into privileges via lack of trust and closed networks - focus on post-communist member states of the European Union.

e.ma European Master in Human Rights and Democratisation

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Abstract

In light of internationally defined and enforced human rights standards, the state is the only entity which can be held legally responsible for human rights violations of its citizens. The current Thesis asks the question of what happens when it is the state itself perpetrating infringements that do not always and necessarily amount to the status of violations, nonetheless the insidious mechanisms through which they are systematically and intentionally carried out trigger random regular negative impacts on the very substance of otherwise legally protected basic rights and freedoms of its citizens. Such is the example of public sector corruption in post-communist states and new EU member states implicitly, which triggers structural and regular negative impacts on the very basic human rights of its citizens.

The current Thesis constitutes an attempt to describe the above mentioned mechanisms through a theoretical endeavour, proposing to reconceptualise corruption through the lenses of the conceptual framework of 'social capital'. A sociological approach to corruption is desirable in light of the overwhelming failed attempts to tackle it which concentrated exclusively on a legal approach. In order to grasp the mechanisms through which insidious informal practices like nepotism, patronage and clientelism survive and undermine the rule of law, a distinction between exceptional and systemic corruption needs to be made, which the EU fails to acknowledge in its new anti-corruption strategy. Systemic corruption creates a rule of its own paralleling and undermining the rule of law and needs to be acknowledged as such.

ACRONYMS AND ABBREVIATIONS

ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
GRECO	Council of Europe Group of States against Corruption
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHRP	International Council on Human Rights Policy, Geneva
MS(s)	Member State(s) of the European Union
NGO	non-governmental organization
RoL	Rule of Law
RoC	Rule of Corruption
TI	Transparency International
UN	United Nations
UNCAC	United Nations Convention against Corruption

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