

Carl Sterkens • Hans-Georg Ziebertz

Editors

Political and Judicial Rights through the Prism of Religious Belief

ISSN 2510-4306

ISSN 2510-4314 (electronic)

ISBN 978-3-319-77352-0

ISBN 978-3-319-77353-7 (eBook)

<https://doi.org/10.1007/978-3-319-77353-7>

Library of Congress Control Number: 2018954652



Springer

Contents

1	Attitude Toward Political Rights and Religious Affiliation, Experience, Saliency and Openness: An Empirical Enquiry Among Students in England and Wales	1
	Leslie J. Francis, Ursula McKenna, and Mandy Robbins	
2	Religion and Political Rights in the Spanish Context: Looking for Developments. Lluís Oviedo & Manuel Canteras	23
	Lluís Oviedo and Manuel Canteras	
3	Religion for the Political Rights of Immigrants and Refugees? An Empirical Exploration Among Italian Students	45
	Francesco Zaccaria, Francis-Vincent Anthony, and Carl Sterkens	
4	The Role of Value Orientations and Political Preference on Political and Judicial Human Rights Among the Croatian Youth	71
	Damir Miloš and Krunoslav Novak	
5	Religion, Political and Judicial Rights in Post-Communist, Post-Atheist Spaces. An Empirical Analysis among Youth in Romania	95
	Silviu E. Rogobete and Robert D. Reisz	
6	Young Palestinian Muslim Support for Judicial and Political Human Rights	123
	Raymond J. Webb and Fatma Jamal Asa'd	
7	Extending Political Rights to Immigrants and Refugees	145
	Francis-Vincent Anthony and Carl Sterkens	
8	Judicial Rights Among Youth in Tanzania	185
	Clement Fumbo and Hans-Georg Ziebertz	

9 Predictors of Judicial Human Rights’ Attitudes of Adolescents in Nigeria217
Modestus Adimekwe and Hans-Georg Ziebertz

10 Social Conflicts, Religion and Human Rights Support: A Study of Young Christians and Muslims in Scandinavia255
Pål Ketil Botvar and Anders Sjöborg

11 Attitudes Towards Refugee Rights in Thirteen Countries. A Multi-level Analysis of the Impact and Interaction of Individual and Socio-cultural Predictors.....275
Alexander Unser, Susanne Döhnert, and Hans-Georg Ziebertz

Index303

Introduction: Political and Judicial Rights Through the Prism of Religious Beliefs

Carl Sterkens & Hans-Georg Ziebertz

It seems to be the case that the so-called ‘checks and balances’ that guarantee the vulnerable equilibrium between legislative, executive and judicial branches of governance are increasingly under pressure, even in Western democracies. Highly esteemed organisations like *Human Rights Watch* (HRW) and *Fédération internationale des ligues des droits de l’Homme* (FIDH) have recently warned that human rights may come under threat in countries that are traditionally labelled as democratic. Reference has been made to democratic countries all over the world: in America, Europe, Africa and Asia. Democracy indices – like the one compiled by the Economist or the more academically oriented Global Democracy Ranking – also make clear that ‘democracy’ is a label not easily completely fulfilled. Democracy can never be taken for granted and its basic principles need continuous thoughtful reflection, active protection and thorough justification.

Respect for political and judicial rights are at the core of the mutual correction of the legislative, executive and judicial branches of governance. This classic *trias politica* distinction has been made with the intention to prevent a concentration of power in either one of them, and therein to protect democracy itself. This third volume in the series ‘Religion and Human Rights’ is focused on the relationship between religion on the one hand and political and judicial rights on the other. It follows logically in the footsteps of the second volume in this series, which has focused on civil rights and liberties. Together with civil rights, political and judicial rights form the core of the first generation of human rights. But unlike the civil rights which focus on the rights of individuals and particular groups, political and judicial rights are shaped at the interplay of the individual and the collective.

Political rights are concerned with what those who hold the power to govern a society should do or should not do in relation to the members of that society. Political rights are therefore the class of rights that protect the rights of individuals from infringement by governments. They ensure the ability to participate in society without discrimination or repression. Because political rights concern the complex relationship between government and those who are governed, they do not only relate to civil rights and liberties, but also to judicial rights. In a way, political rights form the middle ground between civil rights and its holders on the one hand, and

judicial rights which are supposed to protect and uphold these civil rights and liberties by independent jurisdiction. Political rights, therefore, entail a complex set of rights of individuals in relation to the extent people are able to influence the way they are governed. Political rights are the bedrock of the democratic legitimacy of a society, and are therefore crucial for upholding and protecting all human rights by fair policy development and independent jurisdiction. Although not limited to this list, this volume focuses on the following political rights: active and passive right to vote; the right to protest; and the rights of political refugees.

Judicial rights refer in general to the right of a fair trial. These key provisions can be found in articles 6, 7, 8, 11 and specifically article 10 of the Universal Declaration of Human Rights (UDHR 1948), as well as in articles 5, 6 and 7 of the European Convention of Human Rights (ECHR 1953). Judicial human rights are further protected by numerous national constitutions, laws and declarations. They include efforts to operationalise the comprehensive right to a fair trial. How can this be specified? Judicial rights apply to all types of judicial proceedings, whether civil or criminal, and encompass a number of principles of which the following are the most important: equality before the law; the right to independent and impartial judgement; the presumption of innocence; the right to legal aid or counsel; the right to remain silent; or the privilege against self-incrimination. The empirical work in this volume has measured young people's attitudes towards judicial rights with regard to four issues: the right to legal aid; the right to remain silent; the necessity of legally acquired search warrants when entering private spaces; and the right to protection from torture.

This volume does not offer a strictly legal perspective on the so-called political and judicial human rights. It explores the legitimisation of these human rights by individual people, because of their religion, including religious practices and religious beliefs, and because of other individual characteristics. Among these characteristics are visions of what constitutes human dignity, personal evaluations of state authorities, personality characteristics, age and gender, to name only a few. Some contributions in this volume also explicitly look at contextual determinants for attitudes towards political and judicial rights, either theoretically or based on empirical indicators. The empirical approach that scrutinises individual and contextual determinants for the support of political and judicial rights is the original and innovative contribution of this volume to the debate. It provides an important complementary perspective for legal debates. Empirical research can clarify the factors that induce or reduce people's support of political and judicial rights. The key question in this volume therefore is: to what extent do youths in different countries support political and judicial human rights and what influences their attitudes towards these rights?

The articles in this volume offer a broad-ranging description of youths' attitudes towards political and judicial human rights and the factors underlying these views. The studies in this volume represent the discussion of this issue during the annual conference of the international research group Religion and Human Rights (www.rhr.theologie.uni-wuerzburg.de); this conference was held in Zagreb, Croatia, from

10 to 12 December 2015. The discussions during this conference gave way to important revisions of the presented papers of which the final results can be found here. The empirical contributions are based on the same measuring instruments which were used in different national settings, which also made cross-national comparison possible. The final two contributions in this volume offer such cross-national comparisons.

Leslie Francis, Ursula McKenna and Mandy Robbins explore the association between attitudes towards political rights and self-assigned religious affiliation, religious experience, religious saliency and interreligious openness among a sample of 1058 secondary school students in England and Wales. They also take into account personal factors, psychological factors and home environment factors. While religious saliency and interreligious openness both predict a more positive attitude towards political rights, after taking these attitudinal factors into account self-assigned religious affiliation (both Christian and Muslim) predicted a less positive attitude towards political rights. Before taking religious saliency and interreligious openness into account, being Muslim induces support of political rights, while being Christian showed no effect. This finding highlights the fallacy of discussing self-assigned religious affiliation independently of distinguishing the religious saliency and style of such affiliation.

Lluís Oviedo and Manuel Canteras consider the relationship between religion, and political and judicial rights in the Spanish context. Spanish democracy has developed a mature system of protecting and stimulating political and judicial rights, as witnessed by its position in international rankings. At the same time, religious indicators reveal a steady decline. Empirical data confirm the general impression that human rights are broadly accepted and supported by all social segments, including Catholics, and the limited influence of religious beliefs on the appreciation of political and judicial rights, which most young people take for granted. The data stimulate reflection on some variables and help introduce new nuances into this rather unproblematic framework. The positive effects of personal characteristics like empathy and altruism on attitudes towards human rights possibly link the relation between religious faith and human rights sensitivity.

Francesco Zaccaria, Francis-Vincent Anthony and Carl Sterkens focus on the support, or lack of support, for political rights of immigrants and refugees. Confronted with relatively big groups of migrants and refugees in the Southern part of the country, Italian youth is a highly relevant population to ask the following question: Are political rights the property of all people residing in a country, or can they only be claimed by its citizens? This question is not merely an academic one; it touches the lives of more than ten thousand migrants arriving on the Italian shores every month while risking their lives. This burning issue engages intensely political voices and actors in civil society. One among the latter, the Catholic Church, has become more vocal in recent years in advocating an extension of the rights of immigrants and refugees, sometimes even creating a public clash between bishops' statements and the voices of those politicians who express populist and xenophobic ideas. This contribution concerns the role of the Catholic Church in Italy's debate

about the political rights of foreigners; not only at the level of public statements and official teachings of the Catholic hierarchy but also at the level of Italian students' opinions on these matters.

Damir Miloš and Krunoslav Novak examine the relationship between value orientations and attitudes towards political and judicial rights among the Croatian youth and how political preference moderates that relationship. First, the authors examine which of Schwartz's value types are reliable predictors for the level of agreement with political and judicial human rights. Next, they examine how value types are related to political preference expressed in a general scale from left to right. Finally, they describe how political preference interacts with value types in their relation to political and judicial rights. The results indicate that value types such as 'self-direction' and 'universalism' (as well as 'benevolence' and 'achievement') are related to positive attitudes towards human rights and the political left, while 'power' and 'tradition' relate to negative attitudes towards human rights and the political right. It was also found that when political preference corresponds with specific value types, it enhances the existing relationship between value orientations and attitudes towards human rights, while a combination of political preference with value types that are atypical for this preference reduces the relationship between value orientations and attitudes towards human rights. The results are discussed against the background of relevant characteristics of present-day Croatia.

Silviu Rogobete and Robert Reisz analyse the levels of support for political and judicial rights among youth in Romania, and the relationship between religion and attitudes towards political and judicial rights. The authors emphasise the Romanian context as a post-totalitarian and post-atheistic, and give different explanations for the influence of religion on political and judicial rights. First, they present the level of religiosity of the research sample of 681 students between 16 and 18 years old, both in content (beliefs) and behaviour (practices). Second, they explore the respondents' understanding and support for political and judicial human rights. Third, they relate religious views with support for political and judicial human rights.

Raymond Webb and Fatma Jamal Asa'd found modest support for the judicial rights among their sample of 903 Muslims in the Bethlehem area: protection from physical torture; requirement of a search warrant; and the right to legal counsel. There was stronger support for the political rights to political participation, adequate assistance to refugees and the prohibition of police and governmental interference with demonstrations. A strong predictor of support for judicial rights was having spiritual religious experiences. Belief in God, faith, appreciating the public function of religion, cultural conformity and empathy were predictors of support for political rights. Interestingly, older respondents show lower support for human rights. This could be attributed to the experience and effects of Palestinians living under occupation. The findings are consistent with Muslim religious belief and with the notion that judicial and political human rights can find support in a religious context.

Francis-Vincent Anthony and Carl Sterkens surveyed 1215 Indian Christian, Muslim and Hindu college students about political human rights, which they

distinguish in citizens' right to protest; immigrants' right to vote and refugees' right to a normal life. They discuss the support for these rights in an Indian context of secularism and politics of inclusion. Secularism in the Indian context does not require that the State ignores, or opposes, the religious traditions that form part of the civil society; rather that the State, with its politics of inclusion, guarantees a symmetric treatment of all religions and disadvantaged groups. Viewing political rights from this angle, the authors wonder to what extent religions influence the political ideas of their followers. More specifically, they examine the extent to which Christian, Islamic and Hindu beliefs and practices can solicit and legitimise the extension of citizens' political rights to immigrants and refugees. They focus on personal and contextual religious attitudes, the value of human dignity and the functioning of state and democracy, and analyse their impact on the perception of political rights of citizens and non-citizens. They also take into account the background variables of personal profile, religious socialisation and psychological and socio-political traits.

Clement Fumbo and Hans-Georg Ziebertz explain that attitudes towards judicial human rights are context-dependent, and therefore formulate expectations about youths' appreciation of judicial rights in Tanzania with explicit reference to the country's economic, socio-political and religious context. More specifically, the authors test the hypotheses that attitudes towards judicial rights are influenced by the perception of the functioning of state and democracy, by the preferred role of religion in society and by personality characteristics. These hypotheses are rigorously tested while controlling for socio-demographic characteristics. The findings show that respondents are ambivalent towards judicial rights with surprisingly no support for protecting suspects from torture, no support for the right to legal aid and hardly any support for the right to remain silent. Only when it comes to the protection of private life from searches by the police, support is found for the necessity of search warrant. Religion and sex are the most important predictors for attitudes towards judicial rights. Respondents who are sympathetic towards the social and spiritual practices of their church are more likely to support judicial human rights, just like Tanzanian women show more support for these rights than men.

Modestus Adimekwe and Hans-Georg Ziebertz find that the application of judicial rights in Nigeria leaves much to be desired. Judicial rights feature prominently in Nigeria's Constitution since the country's independence from colonial rule in 1960. But these constitutional provisions have not always been respected. Most notable infractions in this regard were recorded in the era of the military regimes, as a result of which the nation was treated internationally as a pariah state and put on the human rights agenda of the United Nations commission. Partly thanks to efforts of human rights groups in the country, Nigeria returned to the path of constitutionalism in 1999. But this democratic turn has had minimal impact on the country's human rights record: illegal arrests and pre-trial detentions, torture and inhuman treatment of suspects, and extrajudicial killings have continued on a large scale. Due process is still not respected. Nigeria's history, characterized by military rule and human rights violations, left its scars on the psyche of the indi-

vidual citizens as well as on national culture. In this study, the authors consider whether individual characteristics account for the judicial rights' attitudes of Nigeria's citizens, especially the youth. The sample includes 1191 students of eighteen secondary schools in Nigeria. Whereas it was assumed that the perception of State influences their attitudes the most, the findings reveal the perception of religion as the main predictor of the evaluation of judicial rights.

Pål Ketil Botvar and Anders Sjöborg compare the support for political and judicial rights among young Christians and Muslims in Norway and Sweden. Previous research among youths has shown that attitudes towards human rights are influenced by the perception of conflicts in society and personal experiences of discrimination, while political affiliation and religion also may have an effect. However interesting these results are for understanding what factors may contribute to grassroots' engagement in human rights, these studies have failed to consider background variables such as gender and parents' education level, and neither did they include nuanced operationalisations of religion. Drawing on data gathered in Norwegian and Swedish metropolitan upper secondary schools ($n = 2044$), this article aims to replicate earlier research correcting for these shortcomings. The analysis shows that while religion has a limited effect on attitudes towards political and judicial rights, controlled for background variables, the effect and perception of conflicts related to ethnicity and perceived discrimination add significantly to the explanation of agreement with political and judicial rights. Christians do not report more discrimination related to ideology and ethnicity than non-religious. Muslims, however, report significantly more discrimination related to ideology and ethnicity than Christians and non-religious. This study shows that there is a relationship between such perceived discrimination and attitudes towards political and judicial rights.

Alexander Unser, Susanne Doehnert and Hans-Georg Ziebertz focus on the issue of refugees' rights. Refugees can count on legal protection by international covenants and conventions, but seemingly struggle with finding support for their rights among the general population. The authors make clear that lack of support by citizens for the legal protection of refugees is likely to lead to social unrest. This article examines which factors induce or reduce support for refugees' rights. Previous studies have shown that attitudes towards foreigners and refugees are influenced by characteristics implicit in the national context. To elaborate this finding, the study makes a cross-national comparison ($n = 12,889$) of thirteen countries in Europe, Asia and Africa. A multilevel regression analysis is used to estimate the influence of micro-level indicators and macro-level indicators on refugees' rights, while taking into account cross-level interactions. Empathy, right-wing authoritarianism, intercultural openness, religiosity, the understanding of the function of religion and the evaluation of state authorities are considered as micro-level indicators. Human development, the degree of democratisation, religious conflicts and restriction of religious practices are taken into account as macro-level characteristics. The results show that the positive influence of empathy and intercultural openness (in particular) on attitudes towards refugee rights depends on

the degree of human development in a particular country. This underlines the findings of previous studies; namely, that the evaluation and perceived legitimacy of human rights are context-specific.