Human Rights Relations between Europe and Russia
A genealogy of diverging concepts

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Abstract

There is a gap between the academic discourse's acknowledgement of the importance of the question of diverging values in the relations between Russia and the European Union (EU), especially in the light of recent human rights cases, and the ongoing tendency of recent analyses of EU-Russia human rights relations to focus on rationalist cost-benefit accounts which leave out value interpretation issues. I seek to fill this gap by genealogically analyzing the origin of different human rights understandings of Europe and Russia and their constitution of the scope of foreign policy action. The results point to a high divergence of the meaning of human rights between the European Union and Russia as well as a high relevance of this divergence for both parties' foreign action and identity formation.

Key words: constructivism, EU-Russia relations, genealogy, human rights, Pussy riot

Introduction

"The problem we are facing today with Russia does not lie in the fact that Russia […] does not acknowledge common values […], but that Russia obviously understands these values in a different way. The distance between the European Union and Russia in terms of diverging interpretations of common values has meanwhile become so wide as to suggest a de facto rejection of these values by Russia"(Sandschneider 2006, translation A.H.). In light of recent human rights issues in Russia (e.g. the Pussy Riot case or the "Foreign agent law") which challenged its Western partners' human rights conceptions, the question of diverging values is now accepted by the academic discourse as one of high importance, especially as communication between Russia and the European Union (EU) is limited mostly to mutual accusations. In spite of this, recent analysis of the human rights relations between the EU and Russia focuses on rationalist cost-benefit accounts leaving out value interpretation issues.

This paper wants to fill this gap by genealogically analyzing the origin of different human rights understandings in Europe and Russia and how they define the scope of foreign policy action of both actors. To show the historicity of human rights ideas, the analysis looks at socio-political conditions, ideas of the relations between community and individual and the view on the individual as a (potential) human rights subject; "contested meanings" (Klotz/Lynch 2007: 32ff) will be included to avoid a teleological impression. Examples of human rights issues between the EU and Russia illustrate how the respective human rights ideas are externalized in foreign policy identities.

I seek not only to contribute to the theoretical discussion of the universality of human rights, but also empirically in terms of a deeper understanding of value interpretations in their effect on foreign policy, especially for the EU as a "normative power" towards Russia, itself not clearly outside the "European" cultural space.

Theoretical background: Constructivist approach

Social constructivism as a school of international relations thought was developed as a critique of neo-realism (cp. Wendt 1987 und 1992) and other (positivist) approaches. Constructivism is less a substantial theory than – depending on the respective work's focus–a method, a research approach or a theoretical orientation (Krell 2009: 357, Ulbert 2006).

"Constructivism" outside of international relations theory is an epistemological approach doubting that human understandings of reality (or of "true" ideas, such as human rights ideas) are direct reflections of an independently existing or perceivable reality. Rather, constructivists

assume the observer herself to play an important role in constructing these ideas (Ruffing 2006: 41f). While philosophy usually locates this construction process in the human brain (Ruffing 2006: 41f), the adaptation of the concept by sociology, especially by Peter Berger and Thomas Luckmann, (Berger/Luckmann [1969] 2012) as "social constructivism" transferred it to the societal level. Berger and Luckmann's central epistemological assumption is that people externalize their ideas about the world, these ideas become objectivated and in turn internalized by people. This thought of endogenous construction of ideas (and interests) was introduced to international relations theory as international relations "consist of social facts, too" (Krell 2009: 359); the other theories' assumptions could then be true or false, but scholars should become aware that what they consider as true or false is the result of an endogenous construction process.

Nicholas Onuf was the first to use the term "constructivism" as a school of thought of international relations and includes in his definition all approaches that stress the intersubjective character of the world, the mutual constitution of actor and structure as well as the constitutive role of rules and norms in the endogenous production of interests and identities (Onuf [1989] 2013).

Constructivism's epistemological assumptions lead to a focus on the mutual constitution of actor and structure (see the above definition by Onuf [1989] 2013). Alexander Wendt criticized existing approaches for taking either the actor or the structure side as given (Wendt 1987). He suggested that rather structures constitute actors and actors in turn confirm (objectivate) structures, but also – crucially– can change them (Harnisch 2010: 103). Structures are not (only) regulative-constraining, but constitutive for the actions, as without structures meaningful action would not be possible (Krell 2009: 359; Lerch 2004: 28). (Political) Actors can only act in relation to other actors or objects on the grounds of what these actors or objects mean to them (Ulbert 2006: 401).

There are also constructivist works that rather focus on the regulative effect of e.g. norms (e.g. Kirste/Maull 1996); this paper, however, focuses on the constitutive power of structures.

The products of these mutual constitutions are ideas, which can be defined as the views of individuals (Goldstein/Keohane 1993: 3) or collectives (Harnisch 2010): These can be worldviews, norms (e.g. "principled belief" in Goldstein/Keohane 1993: 9), systems of meanings (Krell 2009: 365), as well as self-ideas in relation to another, i.e. individual or collective identities (Weller 1997) and (foreign policy) roles (Kirste/Maull 1996). Ideas do not replace "interests"

(central to rationalist approaches), but are constitutive for them (Ulbert 2005). The ideas and meanings over the course of history become "stable" rules and norms (like human rights), which are connections between actor and structure (Lerch 2004: 28), or structures themselves (see e.g. „stable meanings" in Klotz/Lynch 2007: 25).

This idea-based approach of constructivism stands in opposition to the purely materialist assumptions of neo-realism and liberalism (Lerch 2004: 22). Yet, moderate constructivists still include material factors (whose meanings vary depending on the relevance they are assigned to by the actors, Ulbert 2006: 13), while radical constructivists argue that any material reality of international politics is not perceivable in the first place (Krell 2009: 359). Constructivism also challenges rationalist assumptions; though it is debated (in the "rationalism-constructivism" debate) whether both schools are completely incompatible or whether rationalism is simply one of the possible constitutive ideas, a special case of constructivism (Lerch 2004: 22).

Although constructivism thus endogenizes factors such as identities and norms, which are by other approaches not conceptualized at all or considered as exogenously given, this does not mean that (moderate) constructivism ignores e.g. interests; these are still expected to be subject to change, e.g. by processes of social learning (Ulbert 2006).

Critics of the social constructivist approaches have warned that by transferring the concept from sociology to international relations, the danger arises that one reifies or anthropomorphizes the state (Ulbert 2006: 412). For any analysis this means that that states should not be attributed an individual character, but should be analyzed as collective structures. Other critics have mentioned that the ideas that are central to constructivism are themselves social products that do not only define power, but are also formed by power and particular interests (Krell 2009: 377f). I will thus in the following also consider in how far powerful actors influence the discourse about the ideas.

Methodological approach: Genealogy

In constructivist terms, human rights are a kind of constitutive norms (transformable into positive law) influencing (political) action (cp. Sikkink 1993). The very existence of human rights norms is hard to explain without constructivism, as other (international relations) approaches ignore human rights altogether or their emergence (Lerch 2004).

The following analysis follows the Foucauldian genealogy, developing a "history of the present" (Foucault 1979: 31) by looking at the legal, societal, and political contexts of the emergence of

the dominant understanding of human rights in the Russian Federation and the states that are today in majority members of the European Union, an understanding that is assumed to still guide the "present" actions. Both analyzed entities here are heterogeneous cultural spaces and at the same time parts of bigger cultural contexts (some parts of Europe can be called "Western" and the very border between Russia and Europe is debated). It must be clear that the analyzed "patterns" cannot be considered "true" for all parts of and exclusively for this respective actor, but as the dominant interpretations after a struggle with competing views. To stay close to the Foucauldian demand to study history as a series of "discontinuous practices" to be seen in their "specificity" (Foucault 1971: 67), I include cases challenging the dominant interpretation ("contested meanings," Klotz/Lynch 2007: 32), which prevents the impression of a teleological development (cp. Bielefeldt 2008). The stepwise approach looks at socio-political factors and legal culture (4.1), as the basis for ideas about the relation between the (legal) community and the individual (4.2), which in turn favor a certain view on the human as a potential human rights subject (4.3).

I explicitly refrain from giving any definition of human rights (which would most likely be of Western origin), but rather focus on the historicity of the ideas and definitions to show these ideas' constructedness.

I will furthermore (4.4) show how the human rights ideas are externalized into policies by the two actors and how this is related to the emergence of foreign policy identities in the Russian Federation and the European Union, respectively.

Analysis of Human Rights Concepts

Socio-political conditions and legal culture

The role of the Russian Orthodox Church

This section shows the structural conditions creating a special position of the Russian Orthodox Church (ROC) as a significant discursive power (Foucault 1971) in the human rights definition.

A short sketch of the situation in (Western) Europe shall suffice here as a background of comparison: The principle of the separation of secular and sacral issues dates back to Ancient Greece (Feldbrugge 2009: 237), a concrete separation of the church and the state as institutions were largely realized after the French Revolution. Legal philosophy turned away from religious thoughts, focusing rather on natural laws and natural rights (of humans) (Feldbrugge 2009: 238). Before this time, God had been the prime source for laws, the possibility for human rights was

given by the "image of God" in human beings (Bielefeldt 2008). This does not preclude the relevance of religious elements for Western European human rights ideas, yet the church as an institution has since this time lost any considerable influence on the dominant definition of human rights (Bielefeldt 2008). The Vatican, for example, not included in making the EU Charter of Fundamental Rights, rejected its contents as "godless" (Catholic Telecommunications 2000).

In today's Russian Federation and Eastern Europe there has traditionally been a strong link between church and state because a "separating" event like the French Revolution did not occur. The sacral concept of "symphonia" describes an interplay of state and church (Morgenstern 2009: 78) and was developed during the foundation of the Kievan Rus', when a Byzantine strongly hierarchical imperial idea met with a churchly component that has since then preserved a largely theocratic state image (Feldbrugge 2009). In praxis, this resulted in a great influence of the Orthodox Church in politics, including human rights policies (Kostjuk 2005).

After the only interruption of this strong link during the Soviet times, the ROC became a source of identity in the ideological vacuum after the breakdown of the Soviet Union (Wieck 2011: 3); at the same time, the ROC's moral relevance is utilized by the state (Schroeder 1996). The context of the Soviet Union isolated the ROC from the development in the Western European states, where the church had to compromise with secular institutions (Schroeder 1996); thus, the values propagated by the ROC today are mostly the same as during the Tsarist time.

The church still strives to be active in the human rights discourse: The 2008, declaration on "The foundations of the Russian Orthodox Church's doctrine about dignity, freedom and human rights" (Russian Orthodox Church 2008), reflects the concept of "symphonia": The ROC cites among its tasks the survey of (legal) acts of the government related to morality and the the relations between church and state (Russian Orthodox State vb2008: 36ff). The ROC in has a high authority due to the values system it supports (Bremer 2012: 7) and also is a member of the "Civic Chamber", established by President Putin (here again the mutual relationship of church and state in the formation of human rights ideas becomes clear) as well as in the World Council of the Russian People (with consultative status in the United Nations), whose 2006 "Declaration on Human Rights and Human Dignity" was influenced by churchly ideas (Pfau 2008).

The role of the state and the judicial system

This section analyzes how the philosophical-abstract concepts translate into the role of the state and the judicial system in securing human rights.

(Western) European state and legal philosophy sought to solve the dilemma of adequate state power (a balance between the containment of the state and the powers it needs to secure human rights, Hamm 2003: 30, Kühnhardt 1991: 39) by Montesquieu's separation of powers (Feldbrugge 2009: 236) or contractual theory (Kühnhardt 1991: 48). Human rights, developed as "answers to the experience of structural injustice" (Bielefeldt 2008: 126, translation A.H.) are defensive rights to protect individuals against a state's potential misuse of power (Bielefeldt 2008; Feldbrugge 2009); they are, according to contractualists like Locke, antecedent to the state; if the state fails to protect them, the social contract can be dissolved. Thus, the state is contained, but still centrally responsible for the protection of human rights (Bielefeldt 2008: 18).

In Russian state philosophy, the question about an adequate state power is missing, as the state is not qualified to preserve (libertarian) human rights. Libertarian endeavors bypass the state, freedom is not defined as a balance of rights and duties, but as the chance to survive only possible by tricking the state (Makarychev 2012, Plotnikow 2011): Tolstoy writes that as long as states exist at all, there will be no recognition of human rights (in Plotnikow 2011: 233).

This mistrust against the state is also present in the Russian legal system; the "legal nihilism" (Melzer 2012: 157, Nussberger 2004) can be explained by looking at the historical development of Russian law: The influence of the Greco-Roman understanding of law is missing (Melzer 2012: 157). A systematic collection of law like the Napoleonic "Code Civil" is lacking and leads to inconsistencies in legislation and jurisdiction (Nussberger 2004). Human rights have never been seen as antecedent to the state, but as state-made instruments of power (Melzer 2012: 166). Although president Putin announced a "dictatorship of the law", it is rather Putin's dictatorship with the help of the law (Melzer 2012: 168), legal culture is still limited in Russia, as Gulina (Gulina 2008: 74) shows with contemporary proverbs: "Where there is law, there is crime" (mistrust in law); "What are laws for me if the judge is a friend" (higher importance of personal relations than laws, see below "emotional community"); "Before God with the truth, before the judge with money" (relevance of corruption and religion). The persistent unfairness of justice has led to a disregard of law as a social institution for the implementation of individual rights (Plotnikow 2011:11).

In spite of the mistrust in the state, we find the "philosophical paradox of Russian history" (Plotnikow 2011: 224), a tension between an uncontained state power and radical protest against it. There is strong hatred against state power, but a basic trust in authoritarian leaders (Melzer 2012: 166). While in Western Europe the history of human rights was one of the emancipation from overly powerful states, in Russia there is an authoritarian tradition with a "servant culture"

still reflected in recent surveys (Hartmann 2012: 61). The defects of today's democracy can also be partly explained by this "winner takes all" mentality (Melzer 2012: 259). The social contract idea was dissolved in an idea of the state that derived directly from the person of the emperor (etymology: russ. emperor: gosudar; state: gosudarstvo) and did not differentiate between the leader and the people in a "emotional community" (see next chapter, Plotnikow 2011). State and society were considered a unity, state and individual yet antagonists (Plotnikow 2011: 234): The ROC's symphonia idea and anthropology (see also next chapter) are central: The state should not care about the individual's freedom, but about their salvation, the human in the sacral sphere always being God's slave. "The idea of […] an entitlement to human rights and a libertarian, democratic constitutional state is not thinkable from this perspective" (Kostjuk 2005: 166, translation A.H.).

The relation between individual and community

Another strong divergence in concepts lies within the relative emphasis put on the individual and the community.

Human rights concept in the Western sphere have an individual quality (Bielefeldt 2008). Aristotle, often considered one of the first human rights thinkers, considered humans first and foremost as "social beings" that are dependent on a community (Tönnies 2011: 24). Also later the individuality of human rights has been a "contested meaning" (Klotz/Lynch 2007: 32), e.g. in the liberalism-communitarism debate (Sturma 2000: 40) or among "collectivists" like Marx, Hegel and, the 19th century's romantic-nationalist thinkers (Bielefeldt 2008). The collectivist idea was also reflected in the French Revolution's "fraternity" (Tönnies 2011: 108).

The transition from the pre-modern socially contained being and the view of the human as an egoistic individualist (Plotnikow 2011) was what Tönnies termed the transition from community to society (Tönnies 2011). It took place when ancient Rome took over the ancient Greek philosophy of natural rights: The Greek polis being an emotional community, the cultural mixture in Rome had less social cohesion among the strangers. The anonymity of the individual led to a re-definition of the Greek "fraternity without rights" (Tönnies 2011: 217) into today's idea of "equality before the law."

Individual rights still can only exist in a legal community (Bielefeldt 1998), they do not contradict the idea of a community, but are considered as the condition for collective rights and not vice versa (Bielefeldt 2008: 118).

This idea is reversed in Russian human rights philosophy: Individual rights are only acceptable when they are in the interests of the community (Pfau 2008: 242). This thought can already be found in Dostoyevsky's writing, mirroring the thinking in Tsarist times, as he deemed impossible any escape of the individual from a world of radical collectivism, (Tönnies 2011: 217). During the Soviet era, the idea of collective rights was naturally very dominant; the constitution under Stalin only granted human rights insofar as they served the collective spirit (Pfau 2008: 242). The ROC conserved the idea of collective rights after the Soviet times: The orthodox concept of an "emotional community" is reflected in the "sobornost" which describes an organically grown community, dissolving the contrast between individual and collective in the religious body (Buchenau 2007, Melzer 2012: 172, Russian Orthodox Church 2008). The community is considered the natural, divinely ordained state of the human that is to be protected (Russian Orthodox Church 2008). While Western philosophy's defensive rights of the individual give them protection against others, the Russian orthodox view seeks to protect the community from potential "breakaways." Individual human rights give the individual the possibility to betray the community; the individual's egoism is considered the real origin of human rights violations (Bremer 2012, Buchenau 2007: 171). Political rights must not lead to a division of the community (Russian Orthodox Church 2008); religion, morality, sacrality and the fatherland are equally important as human rights (Pfau 2008: 5). The strong connection between political and religious ideas of community leads to a combination of the idea of collective rights with a patriotic element: Human rights must neither contradict Christian love nor patriotic love for the fatherland (Russian Orthodox Church 2008: 21). Here the mutual character of state-church relations in shaping human rights ideas becomes relevant again, with patriotism being utilized by the state as an argument against individual rights.

Conception of the human being

Closely related to the diverging views on the relation between individual and community are the different anthropologies.

For Western European human rights concepts, the relation between individual and community is defined by the anonymized and atomized abstraction and individuation of the human rights, whose holder is an "unqualified individual" (Tönnies 2011: 51) owning rights and dignity by birth. The cynic and stoic philosophy focused on the inner life of the human and derived from this introversion a kind of independence from external circumstances, deriving from this a natural equality of humans in spite of their "external" differences (Hamm 2003: 16, Kühnhardt 1991: 43). The Christian concept of the God-likeness of every human also meant that every

human has the same rights (Bielefeldt 2008). In the Middle Ages, this concept was partly abandoned and the idea of the sinful human was stressed (Tönnies 2011: 61). The Renaissance brought together the Stoa, Roman law, and Christendom; the Enlightenment led to justification of dignity based on human reason, not religion, the Kantian imperative asked to treat all humans as an end in themselves (Tönnies 2011: 34).

This condition-free endowment with rights does not contradict the idea that rights are connected to duties, as rights obligate a potentially unrestricted number of people to respect the rights of all other people (Kratochwil 1991: 158). However, the differentiation between formal and substantial symmetry between rights and obligations is crucial (Bielefeldt 1998: 162ff): The obligation to respect everyone's rights in occidental thought is a formal symmetry; substantial symmetry is rejected, as this would mean the re-interpretation of rights to obligations; Bielefeldt here points to the "common praxis of authoritarian regimes to affirm human rights, but in practice to put them under the condition of the fulfillment of social duties" (Bielefeldt 1998:164, translation A.H.).

In contrast to the idea that derives human dignity (which, according to the Western definition of human rights, is the basis for assigning human rights) from the inner self of the human, in Russian philosophy one finds a normative view on the human being that is critical of individualism (Plotnikow 2011). The origins of this view are, again, closely related to the relationship between individual and community, in different historical contexts derived from the "utopian vision of a solidary community of [in Tsarist times] religious or socialist origin" (Plotnikow 2011: 9, translation A.H.).

A central point of departure again is religion. There is conformity between Western European and Russian view in deriving human dignity from God-likeness. As there was no Enlightenment in Russia, the concept of human dignity was never detached from its religious origin (Tönnies 2011: 34). Still today the Russian Orthodox Church explicitly claims that human dignity is only derived from God-likeness (Russian Orthodox Church 2008); it is this link to God-likeness that creates moral obligations for the individual.

This duty firstly is one towards God, humans are obligated by their God-likeness to strive for the perfection of this resemblance ("theosis" thought, Russian Orthodox Church 2008: 2); this is an example of substantial symmetry which re-formulates rights, or here, dignity, and defines them as a duty. Secondly, this duty also relates to the (religious, national) community; human rights are a danger that force people to defy divine laws (Russian Orthodox Church 2008: 5). The concept of

human dignity is basically accepted, yet every human must constantly prove to be worthy of this dignity; an unworthy life in sin does not ontologically lead to a destruction of the dignity, but "it blurs dignity so much that it is hardly perceivable" (Russian Orthodox Church 2008: 11, translation A.H.). This suggests the interpretation that in a concrete case the person would lose their dignity in legal terms. The ROC's document tries to evade the question of the inalienability of dignity by introducing the difference between an eternal "value" of a person and their morally conditioned "dignity" (Russian Orthodox Church 2008: 9).

There is consequently also a religious-normative re-interpretation of the notion of freedom: In Western thought, it is translated as a personal space of protection against the state and freedom of choice, in Russian philosophy it is rather understood as "freedom from sin" (Makarychev 2012: 54). This normative anthropology has also become widely assimilated by legal philosophy that tends to use the terms "legal subject" and "moral subject" synonymously (Pribytkova 2011).

The obligatory character of the rights can also be found in non-religious contexts, for example in the already mentioned constitution under Stalin that contained a catalogue of basic rights followed by a catalogue of basic duties (Schroeder 1996).

Effects on Foreign Policies and Foreign Policy Identities

The basic thought that leads this analysis is the constructivist assumption that human rights as a kind of ideas constitute the interests, identities and roles of (international) actors (and are constantly re-affirmed by the actors) and serve as norms that direct the behavior of these actors by enabling certain actions. In the following paragraphs, I analyze how far the conceptual differences concerning human rights manifest themselves in recent problems of human rights politics between Russia and the European Union. Primarily, these are cases of Russian politics that could not be understood by the European Union; a special focus is on the Pussy Riot case.

Concerning the special role of the Russian Orthodox Church in terms of influencing the morality ideas of Russian society and the state's policies alike, the conviction of the members of the punk-rock band "Pussy Riot" after their performance in Cathedral of Christ the Savior in Moscow is a case in point. The charge was not only based on Art. 5.26(2) of the Russian code of law on regulatory offences concerning "violations of religious feelings" (this would not have justified a penalty of two years prison camp), but also on Art.282 of the Russian penal code related to public actions that cause the violation of human dignity (among others) due to their relation to religion (von Gall 2012: 2). Different from regulations concerning the freedom of religion and non-discrimination known in the Western European legal area, human dignity itself is here put

into a religious context; the freedom of expression, although cited in the constitution, is bound to certain conditions (exclusion of "agitation", von Gall 2012). The European Union's Charter of Basic Rights, for instance, does not contain any similar limitation of the freedom of expression (Brodocz 2005).

Furthermore, in the Pussy Riot case, Art. 213 of the Russian penal code was cited: "rowdyism due to religious hatred". As a clear definition of these elements of offense is missing (see also further below), again it was the church as a discursive power that filled up the vacuum of meanings, so that the main argument in the end was that the band had violated the regulations of the church (von Gall 2012); such a blurry justification for a legal charge is hardly thinkable in the European legal area, as this justification does not explain which "regulations of the church" are referred to and thus becomes a catch-all element for everything that does not coincide with the ideas of the church.. Considering the "threat scenario" that the Russian Orthodox Church currently sees for itself and its values (Bremer 2012: 6), one can here again argue that the state took over the role he has traditionally been assigned to by the church – securing the individual's salvation, not the freedom of expression (Kostjuk 2005).

This case also illuminates the understanding of the role of the Russian state in terms of human rights: It reflects the idea that the state is not suited for securing the freedom of people and can only secure the freedom from sin, which yet demands a lot of obedience (Makarychev 2012).

The European Union's reaction to this case shows its diverging understanding of human rights: The High Representative of the European Union for Foreign Affairs Catherine Ashton voiced her concerns about the functioning of the legal system in Russia while stressing that the freedom of expression must be protected also when the expressed opinion is "controversial" (Ashton 2012). This reflects the role of human rights as emancipation rights against the state (Bielefeldt 2008): They should give room for criticisms about injustice and defects (Pussy Riot criticized the corruption and the close link between state and church, Bremer 2012) of the state (that only has power because the sovereign citizens have assigned this power to him in the framework of the social contract).

Another structural factor, namely the missing coherency in the legal system, was already mentioned concerning the blurry definitions of the elements of offense: The lack of appreciation for the individual protective function of the law and an incoherent legal interpretation due to a missing scientification of the law make it possible that the band was accused although the elements of offense were as ill-defined as already described (Melzer 2012, Nussberger 2004).

Another discrepancy between the European Union and Russia that is induced by different understandings of human rights can be seen in both actors' statements revealing elements of their foreign identities and roles (cp. Kirste/Maull 1996): The Russian understanding of the state as an emotional community with a tradition that is to be protected and that human rights must not contradict (Russian Orthodox Church 2008: 21) becomes visible in an initiative that was mainly brought forward by Russia about a resolution in the Human Rights Council of the United Nations (A/HRC/RES/21/3 of October 9, 2012). This resolution promotes the idea that what has to be respected above all in human rights politics are the traditional values of different cultures. The European Union voiced its concern that this could be used to legitimize violations of human rights understood with the Western European concepts (International Service for Human Rights 2012). While the Russian Federation has repeatedly stressed that each state is responsible for the human rights policies on its territory, the EU is less critical when it comes to international interventions on the grounds of human rights violations (see e.g. United Nations General Assembly 2012). Furthermore, the EU defines its foreign role more and more by active politics of democratization with the aim of a norm transfer ("civil power," see Kirste/Maull 1996), which is considered by the Russian side as "interference" with internal issues. The EU's understanding comes from the idea that human rights precede the state and that the social contract can be broken if the state fails to deliver (Kühnhardt 2009: 58ff); this state-transcending view on human rights has furthermore a legitimizing relevance for the EU internally (Sieg 2012). In Russia, human rights are rather seen as constructed by the states themselves (cp. Melzer 2012: 166). This does not preclude Russia having active human rights policies abroad; it is in human rights terms that the Russian Federation justifies their politics vis-a-vis the Baltic states (or, more recently, Crimea) when it criticizes the discrimination of the Russian minority (Grigas 2012). This double-standard again shows the role of the community in the Russian human rights philosophy as well as the role of human rights politics for the own identity: Russia perceives the Russian people in the Baltic states or in Crimea as parts of its own emotional community. The specific concepts about the community and the individual become clear also in the Pussy Riot case. The band's performance was also a violation of the religious emotional community ("sobornost", Melzer 2012: 172), which has such a high importance in the Russian legal philosophy; the community is thus more important than those individuals that turn against the community.

A similar justification background can be found in the context of the Foreign Agents Registration Act of 2012: Non-governmental organizations in Russia that receive money from abroad have to register and are declared as "foreign agents" (Siegert 2012). These organizations are also under suspicion of betraying the Fatherland and the community (while here it is not the

rights of individuals that are limited, but organizations that, among other things, try to promote Western human rights ideas).

Here, again, the European Union criticized the Russian government's lack of protection of the freedom of expression, as well as the right of assembly in other contexts (Ashton 2012), which can be explained by the Western European notion of an absolute priority of individual rights over collective rights (Bielefeldt 2008: 118) and the priority of transferring Western ideals in other countries. Furthermore, the European Union itself as a union of states can rather be described as a "society" than as a "community" (Tönnies 2011), although the political elites try to create a sense of community and also use the common human rights understanding to achieve this goal. The Pussy Riot case also illustrates how Russian anthropology forms the political behavior: As the members of the band have not fulfilled their duties towards the community or God, they still have an inherent value as a human, but as they used their freedom to violate the moral (churchly) regulations, they forfeited their dignity and their salvation has to be re-established (cp. about values and dignity: Russian Orthodox Church 2008).

Conclusion

The above stepwise approach has demonstrated two phenomena: Firstly, the actual ideas about the meaning of human rights strongly diverge between the European Union and the Russian Federation, which can, inter alia, be related to Russia's isolation from the ancient Greco-Roman ideas about law as well as from the Enlightenment and its philosophy. At the same time, historically speaking, there were usually also "contested meanings" (Klotz/Lynch 2007: 32ff) on both sides. Secondly, it was shown how (at least in the selected cases) these ideas are constitutive for policy actions.

This continuity of the respective human rights concepts can be explained, in a constructivist sense, as they deliver useful identity concepts for both actors' "precarious" identities that are still in the making. Russia is in an identity "vacuum" after the breakdown of the Soviet Union; the European Union, due to its sui generis character, is looking for a legitimizing self-definition towards the inside and outside (Sieg 2012).

The connection between self-definitions and human rights ideas appears on all the analyzed levels: The Russian nation is defined by collectivist philosophy, influenced by clerical ideas, as an emotional-religious community (Tönnies 2011) with an almost symbiotic relation to their autocratic emperor situated beyond any laws; individual (egoistic) human rights threaten the community. For the European Union, lacking a common "nation," human rights as a pre-state

conception present a chance to compensate the lack of an emotional sense of belonging with the reference to common values (Brodocz 2005; for foreign policy, see "civil power," Kirste/Maull 1996). In the mutual identity construction, the other's norms become a constitutive "other" (a more general phenomenon in European-Russian relations, cp. Ignatow 1997, Makarychev 2012), which results in mutual accusations and counter-criticism by the Russian side when the EU criticizes their behavior and vice-versa (Teevs 2009).

Studying the actual understandings of human rights helps to understand problems in EU-Russia relations and overcome the assumption that the content of human rights is "naturally" universal, with either acceptance or non-acceptance possible. While ideas are constitutive for (foreign policy) interests, it is relevant that there are also interests behind certain ideas (cp. Krell 2009: 367). This is true both for Russia's strive for influence e.g. in the Baltic states (cp. Grigas 2012) and for the EU for which the civil power role with active external human rights policies is an opportunity to create an international "profile". Further research is needed to show which (power, material) interests drive the utilization of the diverging meanings of human rights in the political discourse.

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