



University of Malta  
L-Università ta' Malta



*The President's  
Foundation for the  
Wellbeing of Society*

# International Women's day Conference Human Rights and Equality in Practice Thursday 3rd March 2016

President's Foundation for the Wellbeing of Society  
San Anton Palace, Attard, Malta



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# Link between Human Rights and Equality

**Ruth Farrugia**

*Coordinator: Human Rights Programme University of Malta  
DG: President's Foundation for the Wellbeing of Society*

# SCHEMA

Use of the term FHR

- Some history
- Meaning of Equality
- Equivalence
- The Three “E”s
- The Law
- PFWS
- Conclusions

# FHR - some history

**Plato**

**Aristotle**

**Aquinas**

**Hobbes**

**Locke**



# FHR - some proponents

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- French Revolution
  - American Independence
  - **Rousseau**
  - **Douzinas**
  - **Arendt**
  - First and Second World Wars
- Hegel, Comte**
- Marx, Weber, Freud**

# FHR - some opponents

- **Bentham:** “nonsense on stilts” 1843
- **Burke**
- **Nietzsche**

“Equality is invented by the weak to subject the strong”

# FHR - religious thought

**Hans Küng**   **Max Stackhouse**   **Nicholas Wolterstorff**

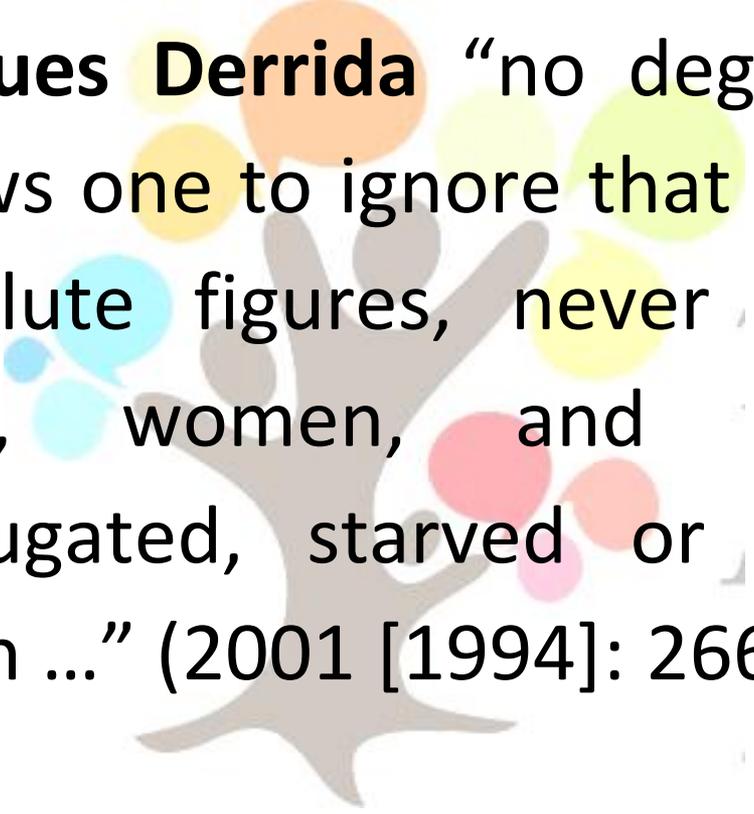
*Principle of Generic Consistency:* **Alan Gewirth**

**Jacques Maritain:** At the French National Commission of UNESCO:  
“We agree on these rights, providing *we are not asked why.*” (1954: 70)

**Ari Kohen** “[w]e may be unable to come to any agreement where our religious or philosophical traditions are concerned, but this need not prevent us from coming to consensus on a political conception of justice.” (2007: 144)

# Richard Rorty (1993: 119)

For many, questioning the benevolence of human rights is akin to siding with the evil and inhumane. However, ultimately based on values that have become meaningless in an age that has largely lost its faith in a metaphysical or transcendental higher source – the value of human rights would appear to be in need of a reassessment.



**Jacques Derrida** “no degree of progress allows one to ignore that never before, in absolute figures, never have so many men, women, and children been subjugated, starved or exterminated on earth ...” (2001 [1994]: 266)

# Hannah Arendt

**“A person with rights is a *bourgeois citizen*. However, those who do not fit this definition, such as foreigners, or refugees, are at peril.”**

**“It seems that a man who is nothing other but a man has lost the very qualities which make it possible for others to treat him as a fellow man.”**

**(Arendt, 1966: 300)**

Some of the greatest acts of violence against humanity have taken place in the name of protecting sameness, including the Holocaust, and other horrific genocides and series of ethnic cleansing of the twentieth century, such as Rwanda and Kosovo.

# Hardwick (2012)

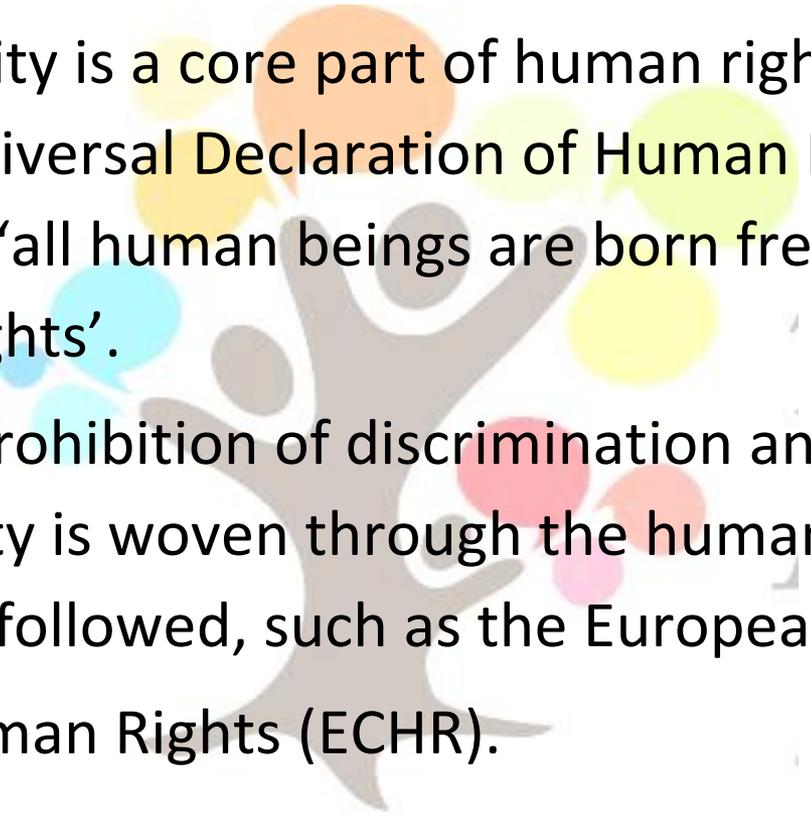
Instead of focusing on similarities, human rights could be established based on the uniqueness of each and every human being, rather than on resemblances and similarities.

We should be aiming to deconstruct the ideas of sameness, a 'pure identity' and oppositional values, and instead affirm diversity and discontinuity

# Feminist Perspective

Taking a critical look at history is imperative to shift rights frameworks focused on women. Historically, “universal human rights” was limited to white males. The contradictions of universal human rights are illustrated within examples of colonialism, slavery, and genocide, all of which negatively affected communities of colour for the growth and protection of white society. While important histories of abolitionism and social justice movements challenged universal rights and expanded rights frameworks to include men of color, human rights as a white power structure has not substantially changed.

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- Equality is a core part of human rights: the first article of the Universal Declaration of Human Rights (UDHR) 1948, states ‘all human beings are born free and equal in dignity and rights’.
  - The prohibition of discrimination and recognition of equality is woven through the human rights agreements which followed, such as the European Convention on Human Rights (ECHR).
  - Some subsequent international human rights agreements are explicitly concerned with equality, including the conventions on the elimination of race discrimination and discrimination against women and those protecting the rights of children and of people with disability.

# Equality

- How does one define conventional *Western* “equality” in a realistic and practical sense?
- Is it a political, social, and economic “evenness” or “sameness” among all people?
- Is it an equal quantity of rights?
- We can have only equal application of comparable rights that are relevant and related to both women and men in the same manners.

# Links

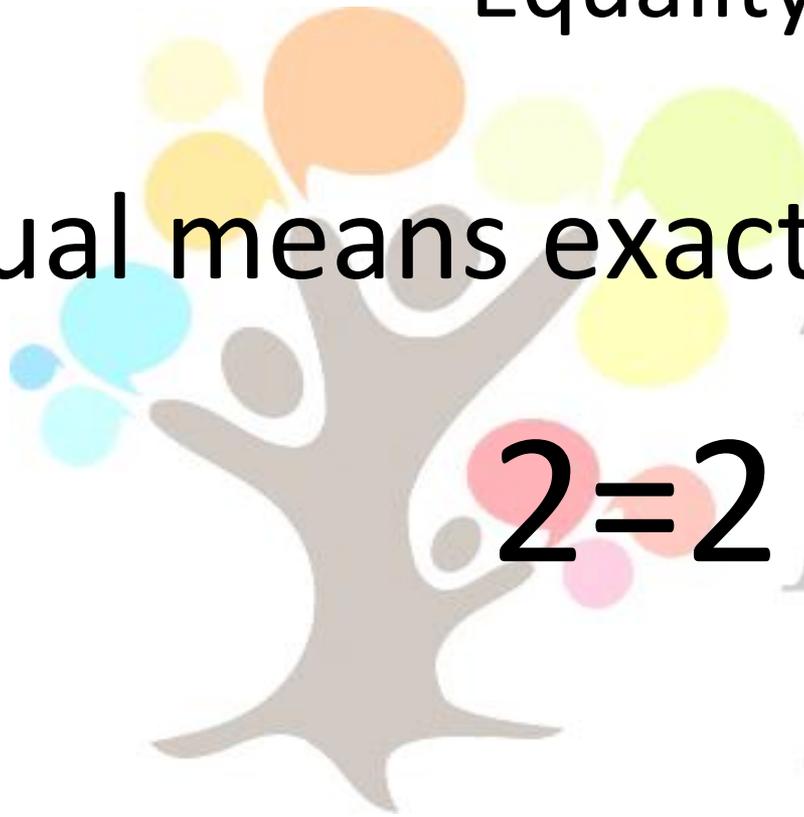
There is a strong ethical synergy between equality and human rights: equality is one of the five widely accepted core principles of human rights (the others are fairness, respect, dignity and autonomy).

These core human rights principles resonate strongly with the values of equality and social justice organisations.

# Equality

Equal means exactly the same

$$2=2$$



# Equality and Equivalence

“Equality of opportunity does not guarantee equality of outcomes.”

Equality is a core human right, and therefore the specific requirement to secure an equivalence of human rights has to be interpreted to include achieving an equivalence of equality rights. Equality and human rights cannot be disentangled.

# The Law

- Equality
- Equal Treatment
- Equal Opportunity

•The concept of “equivalence of rights” is intended to ensure that a minimal level of rights protection is in place but it also has potentially wider implications

# Importance of equivalence

The right to equality is a core part of international human rights law: therefore, the requirement to ensure equivalence in the protection of human rights must extend to the right to equal treatment.

There should be equivalence not only in respect of *formal* levels of rights protection, but also in the actual degree and content of rights protection, and also as to the ability of individuals and groups to enforce their rights.

# The Three “E”s



- Equality – having equal power, rank or privilege
- Equivalence – being interchangeable, comparable
- Equity – being fair

# B v Greece ( 552/10)

3 October 2013

- IB born 1980
- 2001 starts work in jewelry store
- Jan 2005 IB shares his concern that he may be HIV+ with 3 colleagues
- 21 Feb 2005 3+52 colleagues write to director asking for IB's dismissal on grounds of AIDS
- 23 Feb 2005 2005 IB dismissed from employment
- 13 Jun 2006 dismissal declared unlawful
- 28 Jan 2008 confirmed on appeal

# B v Greece ( 552/10)

3 October 2013

- 17 March 2009 Court of Cassation overturns decision : citing employer's interests in maintaining harmonious collaboration between employees
- 3 October 2013 ECHR judgment in favour of IB
- Equality- meaning of discrimination : right to equal treatment
- Equivalence – using comparable grounds
- Equity – fairness in deliberating circumstances on impartial terms

<http://www.equalityhumanrights.com/commission-responds-government-announcement-gender-pay-gap>

## **Commission responds to government announcement on gender pay gap**

**Commenting in response to Government publishing draft regulations to make gender pay gap reporting mandatory for large companies,**

**Rebecca Hilsenrath, CEO at the Equality and Human Rights Commission said:**

**“Today’s announcement is a welcome, but long overdue, step in the right direction. Mandatory reporting should encourage large companies to take action to close their gender pay gaps.**

**“However, while we welcome this requirement for more transparency, we are concerned that the proposals do not appear to provide any sanction for failure to comply. If companies are to take this seriously, we need to be able to use our enforcement powers to ensure that they do what is required. “We await the Government’s plans to extend gender pay reporting to the public sector in England, to mirror existing requirements in Scotland and Wales. “Women are a vital part of the workforce and any proposals to tackle the gender pay gap must be strong enough to deliver the change everyone wants to see.”**

# Planet 50 |

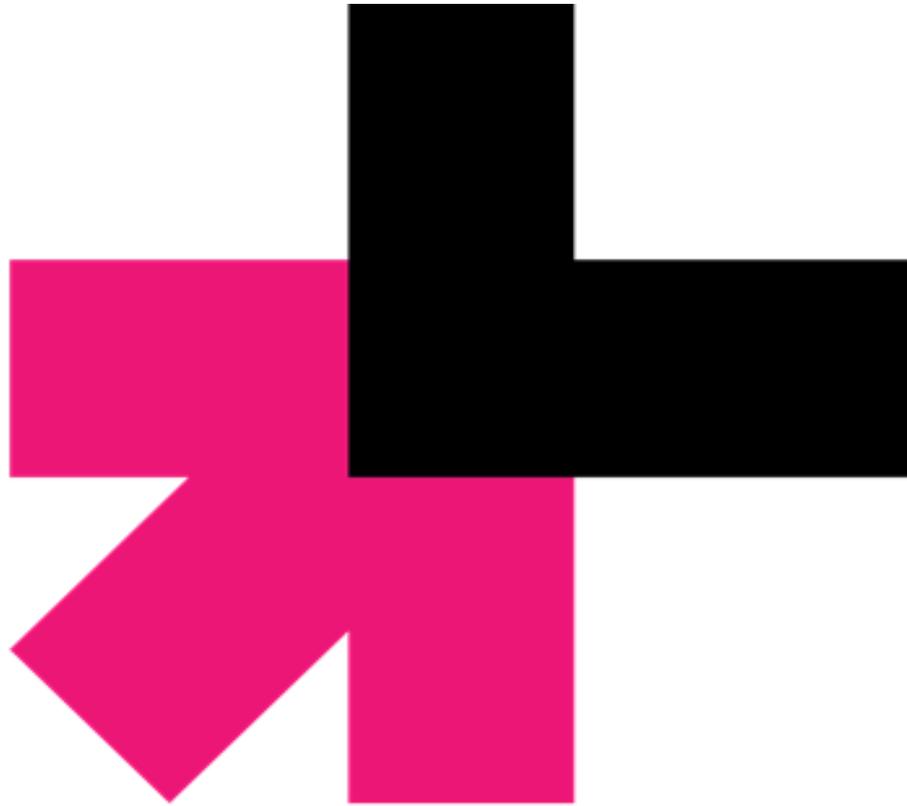
## 50 by 2030

### tackling invisible gender bias

The 2016 theme for International Women's Day is "Planet 50 The 2016 theme for International Women's Day is "Planet 50-50 by 2030: Step It Up for Gender Equality".

Geneva Gender Champions have pledged to break down gender barriers by taking concrete actions to foster parity and organizational change 0-50 by 2030: Step It Up for Gender Equality".

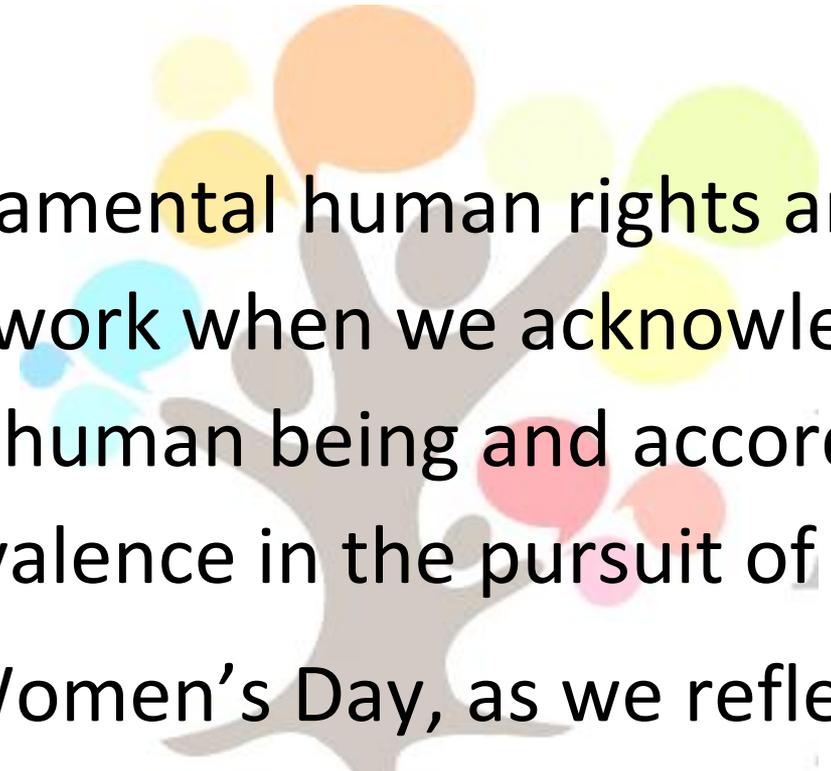
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**HeForShe**

# The President's Foundation for the Wellbeing of Society

- The PFWS uses human rights tools in their work with minority groups to enable them to access their rights for themselves
- Mental Health Platform
- Refugees Platform
- Gender Liberation
- Autism Association
- Young Women in Politics



Fundamental human rights and equality can only work when we acknowledge uniqueness of each human being and accord them equivalence in the pursuit of equity

On Women's Day, as we reflect on issues of equality and rights based approaches, please let's consider how to make this happen



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The President's Foundation for the Wellbeing of Society. San Anton Palace, Attard, Malta

**+356 2148 4662 - [pfsw.opr@gov.mt](mailto:pfsw.opr@gov.mt)**