

Wiktor Osiatynski on the Future of Human Rights

Marek Denisiuk

On September 15th, TCDS hosted a lecture by Wiktor Osiatynski, professor of law and sociology at the Central European University and visiting professor at the University of Chicago Law School and the University of Connecticut. Osiatynski has written 17 books and served as the co-editor of the *East European Constitutional Review*. In addition to having been an advisor to a number of Constitutional Committees of the Polish Parliament, he has played an integral role in implementing drug and alcohol treatment in Polish prisons.

The lecture “What if a Cross-Cultural Consensus on Human Rights Turns Out to Be Impossible?” is of particular relevance given several events in recent history. These include the first two cases of human rights interventions (Kosovo and East Timor), the Augusto Pinochet case, the establishment of the International Criminal Court, and the domestic and international consequences of September 11th.

Osiatynski began his lecture by stating that there is a serious possibility that human rights 50 years from now will meet the same fate as other normative concepts, such as progress and revolution. The adoption of the Universal Declaration of Human Rights in 1948 may have been a rare instance of international consensus on the matter, but, since that time, the definition of human rights has been contested from many angles. The Cold War, for one, led to the Soviet Union and the United States each emphasizing a different aspect of human rights -- the Soviet Union championing social and economic rights, the United States focusing on civil and political rights -- and conducting ideological battles along these lines. Similarly, the split among developed and developing countries further frustrated any consensus on human rights. In the late 60s and early 70s, underdeveloped nations challenged the concept of human rights, both for their failure to consider the sharing of economic resources and for their western cultural bias.

Osiatynski outlined three trends currently imperiling a consensus on human rights. The first is the lack of commitment on the part of the United States to human rights; Osiatynski considers its status “now worse than ever.” The second concerns changes in attitudes on behalf of developing states. Osiatynski pointed out that, after World War II, developing states lead the drive for the formulation and declaration of human rights. This was seen as an essential component of modernization. Modernization has now been abandoned by much of the developing world, and with it so has the emphasis on human rights. Finally, the inflation of issues now being brought under the umbrella of human rights has diluted the strength of the concept and decreased the likelihood of a cross-cultural consensus.

Finally, Osiatynski stated that “where in 1948 human rights talk was uniting, it is now divisive.” As a way of overcoming the current impasse, he suggested setting aside the concept of human rights and seeking a different basis for approaching the same problem. A potential solution along these lines would be the establishment of two international covenants. The first covenant would establish a prohibition on state power; the second would establish the obligations of the state toward meeting the needs of its citizens (e.g. housing, medicine, etc.). Part of this approach entails a reevaluation and reformulation of the notion of “economic and social rights.” This approach, argued Osiatynski, could help to accomplish the goals that human rights were originally set up to accomplish, but be free of many of the entanglements that have risen as a result.

Marek Denisiuk, Dean's and Kalwinski Fellow, is first year Liberal Studies student at the New School University, Graduate Faculty.