

Human Rights Under Pressure

Between Formal Recognition and Effective Protection

Human rights are rooted in a long struggle against oppression: the conviction that every human being must be treated with respect for their inherent dignity and worth. Yet, this conviction has rarely triumphed through mere command; it has largely relied on persuasion. Much of international human rights law has been built upon non-binding institutions and case law that nonetheless shape conduct—advisory opinions, pronouncements, and principles that solidify into custom and are recognised by courts long before formal codification by States. This points to a consideration too often overlooked: the authority of human rights is predominantly persuasive and, consequently, inherently fragile. It depends less on the letter of the law than on the institutional, procedural, and informational conditions that render it credible and effective. It is precisely this fragility that the present issue seeks to examine.

Today, the pressure exerted on human rights stems from multiple sources and rarely manifests as overt repression alone. Instead, it arises from a convergence of forces: the rapid advancement of technologies that mediate decisions once reliant on human judgement; emergency governance that tests the limits of civil liberties; illiberal political movements that erode the institutional foundations of rights; ecological imperatives whose burdens fall disproportionately across regions and communities; migratory and humanitarian crises that expose the inadequacies of international protection regimes; and the persistent inequalities embedded within democratic institutions themselves.

The common thread uniting these phenomena—and a central theme of this issue—is that rights may remain formally enshrined on paper even as the practical, institutional, and informational conditions required for their enforcement steadily deteriorate. Human rights are undermined not only by direct violation, but also when the frameworks that guarantee them—independent oversight, accessible remedies, equitable distribution of public burdens, transparent

decision-making, and balanced representation—are neglected, redesigned, or quietly dismantled. In some instances, this pressure originates not from State inaction, but from measures enacted for legitimate purposes, yet designed in ways that force a vulnerable few to bear a burden ostensibly shared by all. It is to these dual pressures—global in their drivers, local in their tensions—that the Special Thematic Dossier, **Human Rights under Pressure: Global Challenges and Local Tensions**, is dedicated.

This reflection has its origins in the II International Symposium on Human Rights and Citizenship, held in July 2025 under the theme "Human rights in crisis? Tensions between global challenges and local conjunctures". Co-organised by Universidade Portucalense (UPT) and Universidade Salvador (UNIFACS, Brazil), with the support of the Instituto Jurídico Portucalense (IJP), Universidad de Ixtlahuaca CUI (Mexico), and Universidad de Salamanca (USAL, Spain), the event provided a valuable forum for international debate. We are most grateful to the organising committee and partner institutions for making this cross-border dialogue possible. Although this special dossier remains an independent publication, subject to the journal's customary double-blind peer review, it is heavily indebted to the symposium. Accordingly, it features a selection of papers originally presented at the event, alongside a number of independent submissions that further enrich the discussion.

The fifteen articles gathered in the **Scientific Research section**, alongside three additional studies in the **Varia section**, approach these questions from complementary perspectives. The contributions range from discussions on emergency measures and civil liberty, to the algorithmic mediation of work, healthcare, and memory. Further articles address criminal justice, the protection of vulnerable groups, accountability for corruption and systemic violations, and, ultimately, the democratic, social, and ecological prerequisites for equal citizenship.

A first line of inquiry concerns the resilience of the classical guarantees of liberty in the face of emergency governance. **Felipe Augusto CARVALHO**, in *Deprivation of Liberty and Pandemic Lockdown: Rethinking the Case Law of the*

European Court of Human Rights, revisits the Strasbourg Court's jurisprudence on Article 5 of the Convention in the light of the confinement measures adopted during the COVID-19 pandemic, asking whether the traditional criteria distinguishing deprivation from mere restriction of liberty still hold good when entire populations are confined in the name of public health. Emergencies, the article suggests, do not suspend the need for legal categories; they put their precision to the test.

A second cluster of contributions confronts what is perhaps the most pervasive of contemporary pressures: the algorithmic mediation of decisions that bear upon fundamental rights. **Elisabete SANTOS**, in *The Relationship Between Disability and Artificial Intelligence: A Contemporary Legal and Laboral Analysis*, examines the ambivalent position of persons with disabilities in an AI-mediated labour market, in which the very systems that promise inclusion may encode new and less visible forms of discrimination. **Eva Dias COSTA, Mónica CORREIA, and Rui NUNES**, in *Clinical AI Requires Living Oversight: Legal and Ethical Grounds for a New Accountability Framework*, develop this problem in particular depth. They argue that the European frameworks — from the Oviedo Convention and the Charter to the GDPR and the AI Act — secure a documented conformity that, paradoxically, allows responsibility to evaporate into the system itself: each actor certifies their own part, and in the end no one answers for the whole. Since static certification and documentation cannot capture a distributed and evolving process of decision-making, they propose living oversight — continuous, contextual, and substantively human supervision — and recast responsibility as a shared stewardship among developers, clinicians, institutions, and regulators, with concrete implications for dynamic consent, post-deployment auditing, and enforceable redress. Their thesis is that accountability must be designed into operation rather than verified after the event. It is in connection with the requirement that the patient remain "visible" before the machine that the authors invoke the *Google Spain* judgment and the right to be forgotten itself — echoing, from the field of health, the very concern that TRINH, NGUYEN, and VO develop in the domain of criminal justice. **Verónica Juliana CAICEDO BUITRAGO**, in *Neurorights and Cognitive Autonomy in the Context of Contemporary Human Rights and Multilevel Governance*, carries the inquiry further, asking how mental

privacy and cognitive autonomy may be protected within a multilevel system of governance confronted with the rapid advance of neurotechnologies. And **Thuyen Duy TRINH, Tin Trung NGUYEN, and Oanh Thi Kim VO**, in their study of the right to be forgotten in the field of criminal justice, treat that concern at length, showing how the persistence of digital memory may itself become a form of perpetual punishment: drawing on the GDPR and on the case law of the Court of Justice and the European Court of Human Rights, they identify the gaps in Vietnam's 2025 Personal Data Protection Law and propose reforms grounded in case-by-case assessment, differentiated remedies, and priority protection for vulnerable groups, children and women in particular.

These dynamics converge on a question that several contributions make explicit: when decision-making becomes computational and information becomes permanent, who remains answerable, and to whom? The same question, transposed to the institutional plane, animates a third group of articles devoted to criminal justice and accountability. **Evgen KHARYTONOV, Olena KHARYTONOVA, and Mykola M. BILOSHKURSKYI**, in *Civil Liability for Corruption Offenses: Confiscation or Compensation?*, examine the civil-law response to corruption and weigh the respective logics of confiscation and compensation as instruments of restoration and deterrence. The question they raise is a timely one: in Portugal, the Assembleia da República has just approved, and referred for presidential promulgation, a reform of the extended-confiscation regime — transposing a European directive — that permits the forfeiture of illicitly obtained assets even in the absence of a conviction. The parliamentary debate turned on precisely the tension the article anatomises: between the imperative that crime should not pay and the constitutional misgivings raised by depriving persons of their assets without a judicial finding of guilt — a reminder that the design of anti-corruption instruments is itself a human-rights question. **Tereza Cristina Sorice Baracho THIBAU, Lílian Maciel SANTOS, and Vítor Luís de ALMEIDA**, in *Structural Collective Proceedings: Perspectives on Applicability in Brazil and in the European Continent*, turn to the procedural dimension of systemic violations, exploring structural litigation as a mechanism through which the courts may address entrenched institutional failures that ordinary bipolar adjudication cannot reach. **Fátima PACHECO**, in *Binding Effect of Granting*

Refugee Status and Material Limits of Extradition: Recent Responses from the CJEU, analyses the recent case law of the Luxembourg Court on the relationship between international protection and extradition, clarifying how the recognition of refugee status constrains the discretion of the requested States — an instance of how the contours of rights protection are drawn and deepened through the case law itself. **Ana Paula GUIMARÃES, Fernanda REBELO, and M. Manuela MAGALHÃES**, in *Children and the Administration of Criminal Justice – The Perfection of Imperfections*, examine the position of the child before the criminal justice system in Portugal. Tracing the transposition of Directive (EU) 2016/800 through Law 33/2019, they show that, while the Code of Criminal Procedure was strengthened in important respects — the right of parents to be informed, the minor's right to be accompanied during procedural acts — the transposition fell short of the Directive's ambition precisely where it matters most: in the treatment of deprivation of liberty as a measure of last resort, the individual assessment prior to charge, and the specialised training of all those who deal with minors. Their guiding image — the "perfection of imperfections" — names the matter precisely: the protection of children in criminal proceedings is no finished achievement but a work always under construction, in which awareness of the system's shortcomings becomes the means of its improvement. The same concern animates, in the Varia section, the contribution of ALFAIATE.

A fourth set of contributions addresses the democratic and informational conditions on which the effectiveness of rights depends. **Eva MACEDO and Licínia CUNHA**, in *Parity in Local Governments in Portugal: Gender Composition of Municipal Councils (2009–2025)*, offer a systematic empirical assessment of the Parity Law across four electoral cycles in all 308 Portuguese municipalities, concluding that, for all the positive movement from 25.89% to 33.28%, the representation of women in local executive bodies remains below the statutory threshold of 40% — a demonstration that formal legal guarantees do not, of themselves, yield material equality. **João FERREIRA DIAS**, in *The Two-Pillar Squeeze: Media Pluralism and Anti-Gender Politics in Illiberal Rights Governance in Hungary*, gives this intuition an explicit theoretical formulation. Taking Hungary as a critical case, he develops a portable mechanism — the "two-pillar squeeze" — to show how illiberal governance compresses rights without abolishing them.

A first, expressive-informational pillar degrades the conditions under which scrutiny is possible: not through open censorship, but through the re-engineering of media regulation, access to public information, and the room in which journalists and civil society can act as watchdogs. A second pillar weaponises anti-gender politics — typically framed as "child protection" or public morality — to widen administrative discretion while narrowing autonomy, privacy, equality, and non-discrimination. The two reinforce each other: a weakened informational environment makes moralised regulation cheaper to enact, and moral conflict in turn legitimises broader intervention. Tracing this through constitutional amendments, the 2021 child-protection statute, and European enforcement — including the pending Case C-769/22 and Advocate General Ćapeta's Article 2 TEU plea — Ferreira Dias shows that the decisive question is not whether a given right is curtailed, but how the ecosystem that makes it enforceable is quietly redesigned. It bears directly on the thesis with which these pages began.

The protection of persons in situations of vulnerability and displacement forms a fifth axis. **Pedro GARRIDO RODRÍGUEZ**, in *Migrations, Refuge, and Humanitarian Crisis: Historical Analysis from a Human Rights Perspective*, traces the great migratory cycles from the mid-nineteenth century to the present in order to pose a precise legal question: whether the international refugee regime, as configured in the 1951 Convention, remains adequate to the contemporary forms of forced displacement; his answer points towards an evolutive reinterpretation of international refugee law, anchored in multilateral cooperation and a renewed global humanism — a reinterpretation that has historically been the work of the courts no less than of the legislature. **Raique Lucas de Jesus CORREIA**, **José Geraldo de SOUSA JÚNIOR**, and **José Euclimar Xavier de MENEZES**, in *The Right to the City Found on the Street: Theoretical Foundations and Epistemological Perspectives*, shift the focus to the urban condition, revisiting the theoretical and epistemological foundations of the right to the city and the claims of those whom the city renders invisible. **João M. S. CARVALHO**, **Paulo DELGADO**, **Joana L. SOARES**, and **Rachel BAPTISTA**, in *Kinship Care in the Portuguese Law: Meanings and Challenges*, lay bare a distinctive anomaly of the Portuguese child protection system: the placement of children with members of their extended family — recognised internationally as kinship care — is not

formally classified as out-of-home care, leaving thousands of children and their carers largely invisible to statistics, supervision, training, and support; drawing on original empirical research, the authors contend that the recent legislative reform offers an opportunity that should not be lost.

The dossier closes by confronting a pressure that will define the decades to come. **Cuong Viet DO**, in *When Ecological Transition Pressures Human Rights: Equality, Localized Sacrifice, and Unequal Public Burdens*, performs a reversal of perspective: human rights may be placed under pressure not only by ecological breakdown — by the State's *inaction* in the face of harm — but by public *action* itself, that is, by the legal design of the responses to that breakdown. Transition measures that are general in form, operating upon societies already marked by inequalities of income, territory, and political voice, may impose severe and localised sacrifice on particular communities, without adequate mitigation, participation, or compensation. The author develops the notion of *unequal public burdens* as an equality-based test for legal review — built upon three cumulative indicators: the severity of the impact, the concentration of the burden, and the absence or manifest inadequacy of any corrective design. Illustrating it through energy poverty, biodiversity conservation, and the planned relocation of communities, he shows that equality does not weaken ecological transition; it is, rather, one of the legal conditions under which transition may remain publicly defensible and just. It is in a dissenting opinion — that of Justice Lino Ribeiro in *Acórdão 83/2022* of the Constitutional Court, the Iberian Wolf case — that the problem of equality before public burdens finds, in our own legal order, its sharpest formulation — showing that opinions which do not prevail may still shape the law's later development.

Read together, these contributions suggest three broader lines of reflection. First, the contemporary pressure on human rights is increasingly *structural* rather than episodic: it operates through the redesign of institutions, procedures, informational environments, and burden-sharing arrangements, rather than through isolated acts of violation. Secondly, effectiveness has become the central battleground of rights protection. As ecological transition makes plain, universality may be claimed at the level of purpose while inequality is produced at the level of implementation — and it is in that gap between the

right proclaimed and the right secured, whether the subject be clinical AI, the governance of the media, parity legislation, or kinship care, that protection is truly won or lost. Thirdly, vulnerability is no residual category but an analytical key: children before the criminal courts, workers with disabilities, victims exposed to perpetual digital memory, communities bearing a localised ecological sacrifice — it is at these points of concentrated exposure that the credibility of the entire system of protection is put to the test.

We thus return to our point of departure. If the authority of human rights is above all persuasive, then their defence is not exhausted in the solemn proclamation of norms: it demands that we tend to the institutional, technological, and distributive conditions under which those norms may still be credible and may still keep their promises. As the evolution of international law has so often shown — through bodies that do not command but convince — it is in the patient work of consolidation, interpretation, and reinvention that rights are kept alive. That is the task to which the contributions gathered in this issue invite us.

The Varia section gathers three further studies that extend these concerns into specific domains of Portuguese and European law. **Virgílio MACHADO and Carlos COSTA**, in *Labor Law in Crisis? The Case of Tourist Professions*, question the capacity of labour law to respond to the particular demands and precarities of the tourist professions. **Dora Resende ALVES**, in *Competition Law in the Values of the European Union – A Few Notes on Case Law*, reflects on the place of competition law within the axiological framework of the Union, illustrating through recent case law how market discipline and the Union's founding values intersect. Finally, **Ana Rita ALFAIATE**, in *Procedural Status of the Child Accused in Portugal*, returns to Directive (EU) 2016/800 from a complementary angle, analysing its transposition by Law 33/2019 of 22 May and contending that the Portuguese legislator transposed it timidly: a genuine paradigm shift, she argues, requires extending its guarantees, in substance and not merely in form, to all young persons who come before the criminal courts.

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