

# The politics of rights and marginalised groups: Towards critical awareness

 [openaccessgovernment.org/article/the-politics-of-rights-and-marginalised-groups-towards-critical-awareness/203086](https://openaccessgovernment.org/article/the-politics-of-rights-and-marginalised-groups-towards-critical-awareness/203086)

## Kati Rantala offers a thorough analysis of the politics surrounding rights and marginalised groups, fostering critical awareness

The politics of rights refers to the way rights are shaped, interpreted, and contested within social and institutional power structures. Modern constitutional democracies place universal rights at the core of political legitimacy: as safeguards against arbitrariness and as vehicles for inclusion. However, the promise of rights often collides with dysfunctional institutional practices, epistemic hierarchies, and material inequalities, which is why rights can both empower marginalised groups and reinforce existing hierarchies. <sup>(1)</sup>

The central question is not whether rights matter, but understanding when and how they matter – and, in doing so, avoiding the traps created by an unquestioning belief in their supremacy. The topic is exemplified through a study on older people. <sup>(2)</sup>

### Paradoxical rights

On one hand, rights enable claims- making, visibility, and legal remedies; on the other, they can narrow political horizons by translating complex injustices into individualised, litigable harms. Legalisation can thus reformat social and structural problems into procedural claims, but such formal processing does not necessarily transform underlying power relations.

In addition, procedural requirements – and authorities in charge of them – shape whose harms are recognised and which remedies are deemed “reasonable”. <sup>(3)</sup> As a result, communities facing multidimensional exclusion encounter a juridical funnel in which only some harms are cognisable, and remedial paths are slow, costly, and uncertain.

The politics of rights is thus also a politics of knowledge: what counts as evidence, who is heard and how, whose testimony is viewed as credible, and which harms are seen as ‘legitimate’. <sup>(4)</sup> These insights reveal why formal “recognition” alone, such as symbolic inclusion or antidiscrimination norms, cannot secure equality where epistemic infrastructures do not register lived experiences – either directly or through appropriate representation.

Many legal entitlements also materialise – or not – in everyday practices between individuals and civil servants, or clients and service providers, rather than in courts. Substantive equality also requires redistributive measures that address the material bases of freedom <sup>(5)</sup>. Rights that protect against unequal treatment can coexist with entrenched disparities in wealth, health, housing, education, and political power. Anti-poverty and social rights regimes – when enforceable and paired with robust administrative capacity – can mitigate these inequalities, but they remain politically contested and vulnerable to austerity logics.

## Everyday justice for older adults as an example

---

The politics of rights is most revealing in the mundane. Among a variety of possible examples, I present findings from a recently published study of older people's everyday legal problems and access to justice in Finland, based on their own stories. <sup>(2)</sup> On paper, older age should not impact the level of legal protection regarding autonomy in healthcare decisions, equal treatment in financial services, and access to social benefits, for example. In effect, age is a specific ground for possible discrimination. However, their rights, like anyone else's, can be mediated by bureaucratic systems, professionals' belittling attitudes, and infrastructural design.

In one example from the study, an older woman applies for a modest bridge loan to secure a new apartment. Instead of assessing her financial credentials, the bank clerk asked, "Are you able to walk?" – a question that conflates physical mobility with legal capacity. The clerk and real estate agent proceeded to discuss her affairs as if she were incompetent, even suggesting pensioner clubs and lunch centres. This episode exemplifies how ageist assumptions erode recognition, reducing a rights-holder to a stereotype.

In another type of example, an older taxpayer missed a payment because notices were posted only on an online portal she could not access. Her attempts to resolve the issue by phone were burdensome, and the result was looming debt enforcement. This is not a story of individual failure but of structural design choices that redistribute administrative burdens onto those least equipped to bear them. In a third type of problem, when older adults seek remedies for maltreatment in social or health services, relocation to another care facility is often offered by authorities instead of accountability.

The narratives in the study revealed how routine interactions become legally significant when societal norms and institutional arrangements collide with vulnerability. These narratives also illustrate how rights are not self-executing. They depend on recognition free of prejudice, as well as on the redistribution of enabling resources and representation with real authority. The politics of rights, then, is not only about [drafting laws](#) but about designing systems that make rights actionable in the messy realities of everyday life.

## Towards realistic improvement?

---

Rights may thus deliver formal equality without transforming the structures that produce inequality. In doing so, rights can mask domination under the guise of equality, as they appear universal and emancipatory. Yet they often reproduce power relations and exclusion, making them dysfunctional.

Is it then possible to recognise risks in the politics of rights without needing to abandon the promise of rights? Is it possible to situate rights within broader strategies of democratic renewal and social provisioning? For marginalised groups, the positive politics of rights would be most effective when embedded in institutions that recognise dignity, redistribute resources, and guarantee voice or its appropriate representation with real, meaningful power. <sup>(5)</sup>

This kind of framework, which integrates all three aspects, would also reframe justiciability: courts remain important, but administrative design, budgetary politics, and public epistemologies are equally decisive. The task is, therefore, not to choose between courts and [politics, law and policy](#), or recognition and redistribution; to acquire change, it is to weave them together so that rights become living practices rather than aspirational texts.

Unfortunately, there is no ultimate authority to weave all these strands together. True change begins by recognising reality as the first step. An uncritical celebration of rights – without reflective awareness – can even be harmful, as it may obscure structural dynamics and help sustain them. Accordingly, I would start by fostering a critical understanding of the politics of rights, enabling practitioners to avoid the traps embedded in their application as a basis for improvement. It is difficult to imagine a world that is just for all based on similar criteria, but it may nonetheless be realistic to improve some policies for many.

## References

---

1. E.g., Brown, W. (2004) “Suffering the Paradoxes of Rights.” In Brown and Halley (eds.): *Left Legalism, Left Critique*, 420-434, Duke University Press; Fredman, S. (2011) *Discrimination Law*. 2nd ed., Oxford University Press; Tushnet, M. (2008) *Weak Courts, Strong Rights*. Princeton University Press.
2. Obstbaum, Y., Hautamäki, L., Ervasti, K., Teerikangas, M., Nikumaa, H., Ahola, S., ... & Mäki-Petäjä-Leinonen, A. (2025) “Are you able to walk? Asked the bank clerk.” *Everyday legal problems and access to justice from the perspective of older people*. *Journal of Aging Studies*, 75, 101377. Partly funded by the SILE project.
3. Bourdieu, P (1986) The force of law: Toward a sociology of the juridical field. *Hastings LJ*, 38, 805.
4. See Fricker, M. (2007) *Epistemic injustice: Power and the ethics of knowing*. Oxford University Press.
5. See Fraser, N. (2000) “Rethinking Recognition.” *New Left Review* 3 (2000): 107–118.

Primary Contributor

Kati Rantala  
University of Helsinki

Creative Commons License

License: [CC BY-NC-ND 4.0](#)

This work is licensed under [Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International](#).

## What does this mean?

**Share** - Copy and redistribute the material in any medium or format.

The licensor cannot revoke these freedoms as long as you follow the license terms.