

# Professor Helle

## The Right to Science: Then and Now

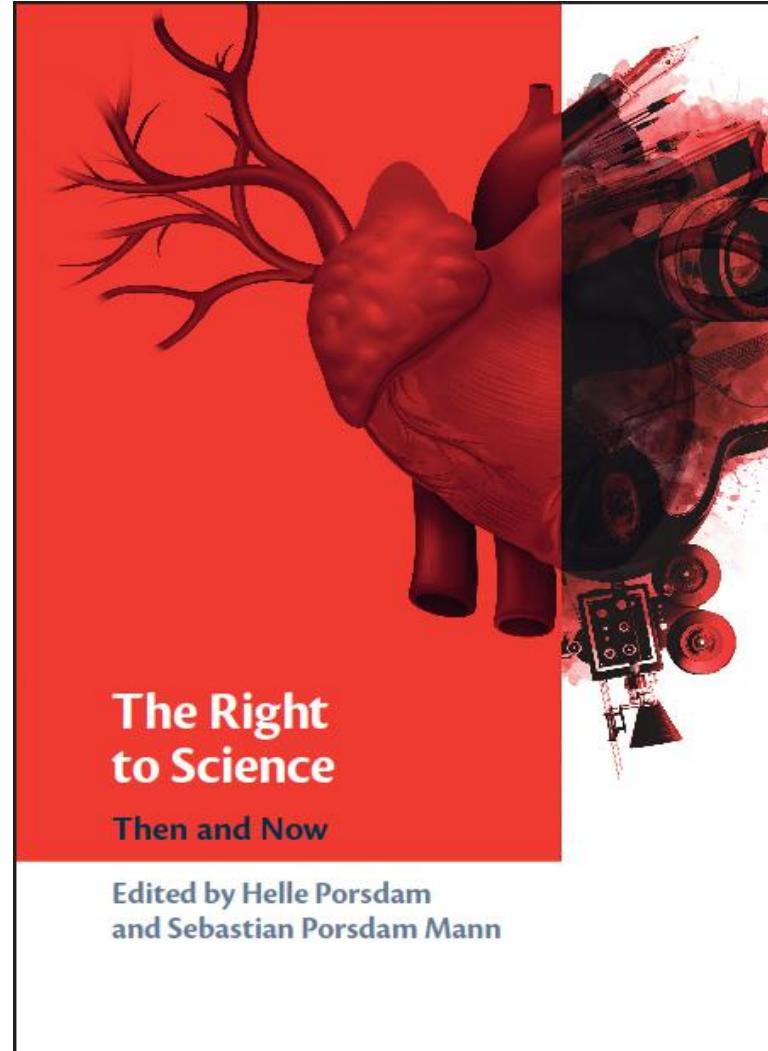
Professor Helle Porsdam

**Center for Interdisciplinary Studies  
of Law & SAXO Institute  
UNESCO Chair in Cultural Rights**

UNIVERSITY OF COPENHAGEN



# ***The Right to Science: Then and Now* (Cambridge University Press, 2021)**



# IP rights and human rights

- “IP rights are time and space bound. By contrast, human rights enunciate moral ideals based on the primacy and dignity of each human being. They are universal and hold irrespective of place and time. They articulate the spheres of civil, political, social, economic and cultural protection which are required for the full realization and development of each human being’s personality. It is this ethos of human self-realization which animates the right to science in Article 27 UDHR and Article 15 ICESCR.”
- (Aurora Plomer, “IP rights & human rights,” in Helle Porsdam & Sebastian Porsdam Mann (eds.), *The Right to Science: Then and Now* (Cambridge University Press, 2021)

# What are cultural human rights?

- The right to education
- The right to participate in cultural life [the right to culture]
- The right to benefit from science and its products [the right to science]
- Authors' rights

Cultural rights further the pursuit of knowledge and understanding as well as of human creativity

(Farida Shaheed, first UN Special Rapporteur in the field of cultural rights)

# A bit of history: The International Bill of Human Rights



- I. The UN Universal Declaration of Human Rights, 1948 – an ideal standard held in common by nations around the world, but bears no force of law
- II. The International Covenant on Civil and Political Rights (ICCPR), 1966
- III. The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966
- Both covenants became international law in 1976.

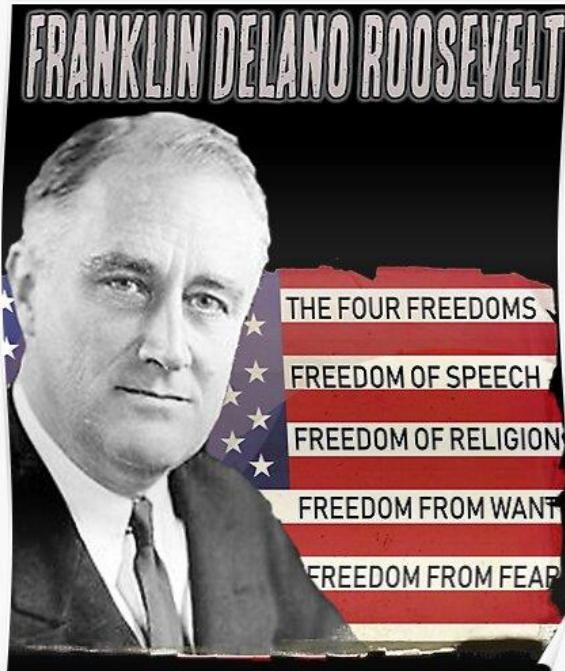
# The Vienna Declaration of the World Conference on Human Rights 1993

## Kinds of Rights

- Civil, political, social, economic, cultural
- There is no hierarchy of rights and all rights should be regarded as being of equal priority.
- Denial of one right invariably impedes enjoyment of others, leading to the recognition by UN Member States that human rights are **indivisible, interdependent and inter-related**

(Source: Vienna Declaration and Programme of Action, 1993)

# FDR: 1941 State of the Union Address (4-freedoms speech)



- Among the “basic things expected of our people” as the “foundations of a healthy democracy,” Roosevelt included the **“enjoyment of the fruits of scientific progress** in a wider and constantly rising standard of living.”
- **Four freedoms:** freedom of speech, freedom of worship, freedom from want, and freedom from fear

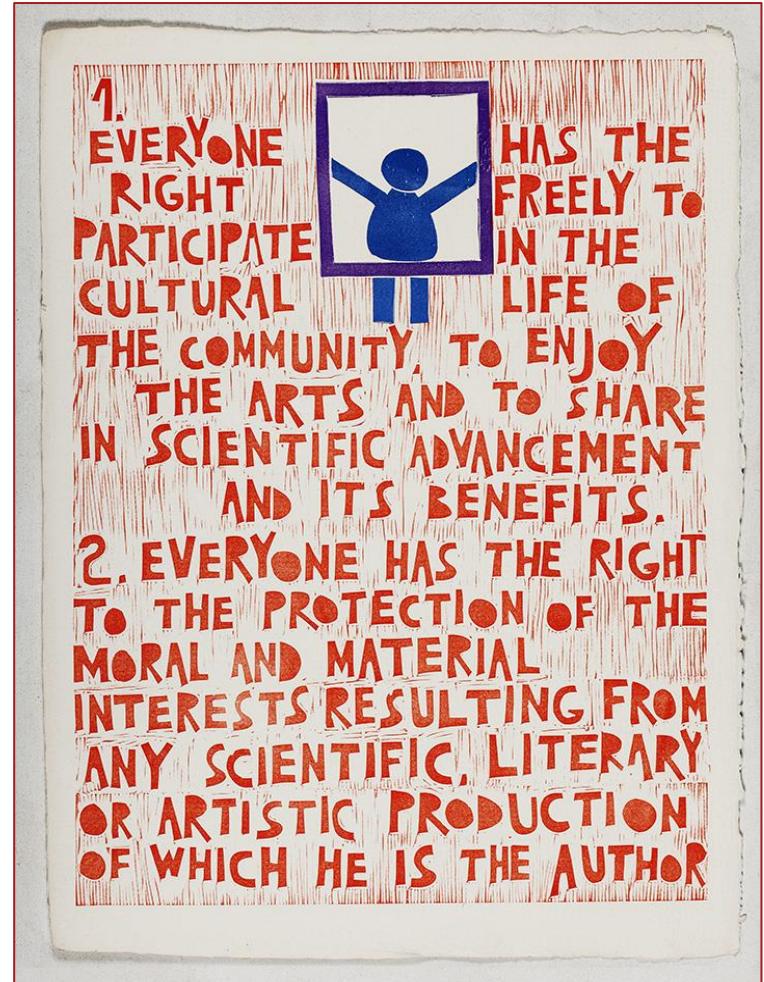
# Franklin D. Roosevelt, State of the Union Address, 1944

- The right to a useful and remunerative job in the industries or shops or farms or mines of the Nation;
- The right to earn enough to provide adequate food and clothing and recreation;
- The right of every family to a decent home;
- The right to adequate medical care and the opportunity to achieve and enjoy good health;
- The right to adequate protection from the economic fears of old age, sickness, accident, and unemployment;
- The right to a good education.

All of these rights spell security.

# The right to science

- 1. Freely participate in *cultural life* and share in *scientific advancement*
- 2. Protection of moral and material interests (*authors' rights*)



## Article 15 ICESCR repeats almost verbatim Article 27 UDHR

1. The States Parties to the present Covenant recognize the right of everyone:
  - a. To take part in cultural life;
  - b. To enjoy the benefits of scientific progress and its applications;**
  - c. To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

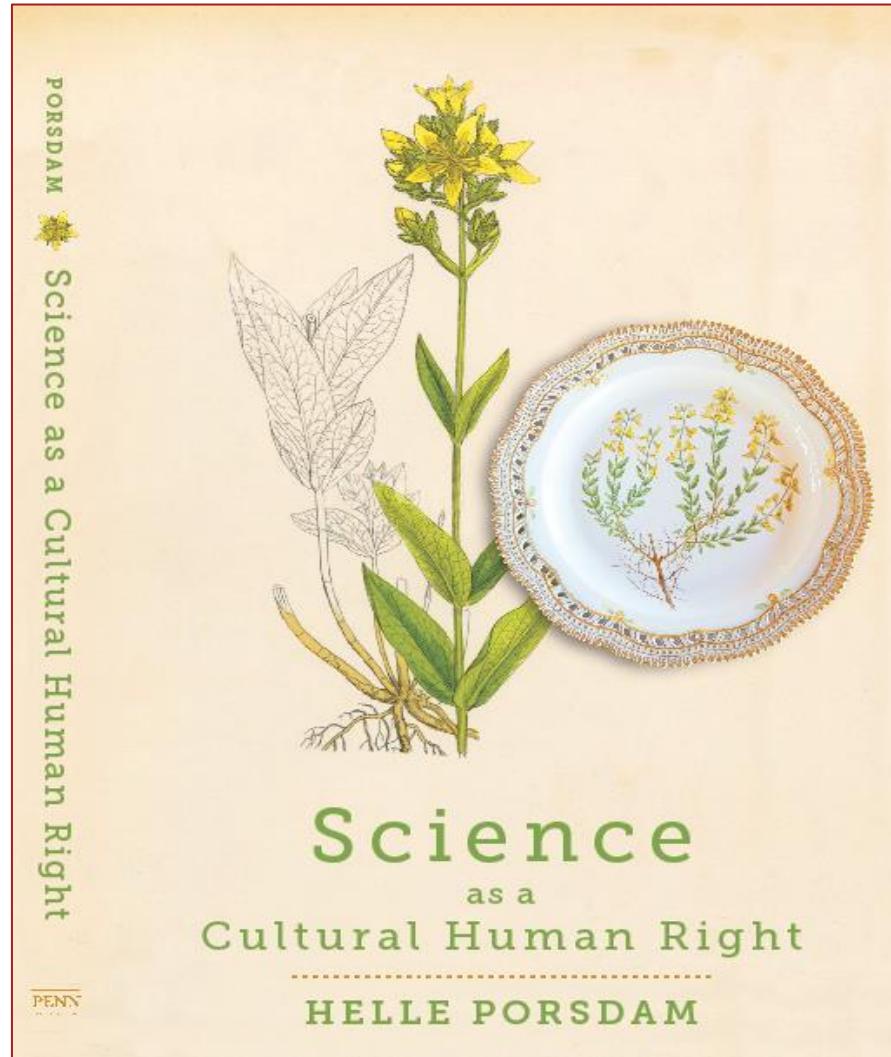
# Article 15,2-4 ICESCR

- 2. ***The steps to be taken by the States Parties*** to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the ***diffusion of science*** and culture.
- 3. States must "undertake to respect the ***freedom indispensable for scientific research*** and creative activity."
- 4. States must "recognize the benefits to be derived from the ***encouragement and development of international contacts and co-operation*** in the scientific and cultural fields."

# What does 'the benefits of science' mean?

- This term encompasses four different things:
- 1) the **material results of scientific research** (medicines, vaccination, and technological instruments);
- 2) the **scientific knowledge** and information that derives from scientific activity;
- 3) the role of science in **forming critical and responsible citizens** who are able to participate fully in a democratic society;
- 4) **evidence-based decision-making processes** in a democratic society (CESCR 2020)

# *Science as a Cultural Human Right* (University of Pennsylvania Press, 2022)



# Scientific freedom – and responsibility



- **Scientific freedom and scientific responsibility are essential to the advancement of human knowledge for the benefit of all.** Scientific freedom is the freedom to engage in scientific inquiry, pursue and apply knowledge, and communicate openly. This freedom is inextricably linked to and must be exercised in accordance with scientific responsibility.

AAAS Statement on Scientific Freedom and Responsibility, *Science* 27 Oct 2017

# Farida Shaheed and others: “IP rights are not human rights”



- “There is no human right to patent protection. Where patent rights and human rights are in conflict, human rights must prevail… Patents [and copyright] must never extend so far as to interfere with individuals’ dignity and well-being.”