



**Engaging Civil Society in Equality and  
Migration Policy-Making  
A Review to Equality (Scandinavian  
Studies in Law, Volume 68, 2022)**

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**Abstract:** This review analyzes Equality (Carlson, 2022). The volume's focus on equality law and civil society advocacy is combined with the new proposed methodology of the Systematic Ongoing Direct Civil Society Engagement of the Horizon Europe HRJust project. The review highlights the role of civil society, particularly through the HRJust's proposed ODCSE (Systematic Ongoing Direct Civil Society Engagement) methodology, in challenging or shaping human rights justifications that can be brought forward in their decision-making and policymaking in several fields, including migration and equality policies. Ultimately, the review argues that combining doctrinal legal scholarship with participatory research methods strengthens both accountability and impact—showing how civil society engagement can transform human rights from rhetorical claims into enforceable commitments.

**Keywords:** Human Rights Justifications; Civil Society Engagement; European Union

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## 1. Introduction<sup>1</sup>

*Equality* (Carlson, 2022) is an anthology examining equality under the law from multiple angles. Nineteen contributors – from academic scholars to practitioners - explore theoretical approaches to equality, specific discrimination grounds (gender, race, age, disability, etc.), and practical issues of enforcement. Notably, the volume’s final segment addresses the role of civil society in advancing equality.

This focus on civil society engagement is of particular interest in light of the EU Horizon Europe *HRJust* project (*States’ Practice of Human Rights Justification: a study in civil society engagement and human rights*). *HRJust* investigates how states invoke human rights to justify policies (i.e. human rights justifications or HRJs) – and how civil society can react.

This review critically reflects on the *Equality* Volume (edited by Professor Laura Carlson, who has also contributed alongside, among others, Dr Paul Lappalainen and Prof. Tuomas Ojanen, also part of the research teams in the *HRJust* project) with an emphasis on civil society engagement issues. The review also discusses the innovative “Systematic Ongoing Direct Civil Society Engagement” (ODCSE) methodology developed in the *HRJust* project and suggests how this approach can enhance the scholarship presented in the *Equality* Volume.

## 2. States’ Human Rights Justifications

One of *HRJust*’s starting points is the observation that states increasingly defend and legitimize their actions by invoking human rights as a tool of governance. In the *HRJust* terminology, these invocations are “human rights justifications” (HRJs). These patterns reveal an opportunistic and sometimes distorted use of human rights language: rather than being guided by consistent legal standards, states often frame policies as protecting human rights or vulnerable groups, while in effect deflecting responsibility and reinforcing control, in the view of civil society observers. Human rights thus risk being reduced to a *pretext*, invoked to legitimize actions that may

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actually undermine the very rights at stake.

HRJust's migration-focused research has investigated these phenomena in several fields of research, including COVID, climate litigation and migration.

Sweden offers a particularly compelling case for study due to its unique legislative process. The Principle of Public Access to Official Records (*Offentlighetsprincipen*) (Lundberg, 2012), combined with a broad consultation mechanism (the remiss procedure), enables detailed tracing of the law-making process, capturing the positions of the government (through official proposals), societal actors (via consultation responses), and the parliament (through legislative debates) as policies are proposed, debated, and enacted. For example, in the context of migration law reforms that took place in Sweden between 2016 and 2021, extensive expert input was embedded within the process. Civil society indeed consistently raised concerns about the negative effects of proposed restrictions, especially on vulnerable groups such as children, women, and families (Trawicki Anderson, Jern & Franck, 2025). Despite this, policymakers largely ignored or downplayed the consultative findings in parliamentary debates and legislative proposals – justifying the adoption of stringent migration policies on the necessity to give Sweden a temporary ‘respite’ or ‘breathing space’ to better address the reception of those who had already arrived. As the government wrote in their proposal: ‘these measures are [...] necessary for Sweden to be at a minimum level in accordance with EU law and international conventions and create a breathing space for Swedish refugee reception’ (Regeringen, 2016). This can qualify as a human rights justification since it frames restrictive measures as necessary to comply with legal obligations and to protect the rights of those already within the system - an emblematic case of human rights justification *in practice*. A key variable in this picture can be the civil society engagement – where independent actors are sidelining or co-driving the narrative.

### **3. Civil Society Engagement: Advocacy and Accountability**

How do civil society actors respond to HRJs? The HRJust project places civil society at the center of its analysis. The *Equality* Volume explicitly recognizes the importance of civil society in the realm of equality law. In its contribution on “The Role of Civil Society Advocacy in Equality Law – Lessons for the Nordics”, Lappalainen highlights the importance of civil society in addressing issues of inequality (Lappalainen, 2022). Particularly, Lappalainen underscores the role of the civil society organisation, the Starting Line Group, was instrumental in bringing

about changes to not only the EU treaty but also to the content and actual adoption of the Racial Equality Directive (Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin). This involved legislative advocacy as well as mobilization, especially concerning civil society organisations representing the victims of discrimination. As the chapter details, in 1991 a coalition of more than 400 non-governmental actors from across Europe, concerned with racism, migration, and equality came together to form the Starting Line Group, which drafted its own model directive against racial and ethnic discrimination and lobbied for its adoption (Chopin, 1999). Lappalainen recounts how civil society's advocacy eventually catalyzed a transformation: the Amsterdam Treaty of 1997 amended the EU treaties to grant explicit power (Article 13 EC, now Article 19 TFEU) to legislate against discrimination. With this new mandate, the landmark Racial Equality Directive was passed in 2000, followed by other directives on gender and employment equality. In short, civil society in the form of the Starting Line Group helped move the EU from an idea of equality as a market concern to a vision of equality as a fundamental right. This achievement resulted from strategic advocacy.

This historical narrative from *Equality* aligns strongly with the HRJust project vision. Notably, the Starting Line Group's success illustrates a kind of "human rights justification" *in reverse*: rather than states using human rights discourse to justify their actions, NGOs used human rights principles (equal dignity, non-discrimination) to justify new legal obligations for states. The Racial Equality Directive's adoption can thus be seen as a success of civil society's rights-based framing.

At the same time, Lappalainen acknowledges structural imbalances in law-making – taking Sweden as case study. Traditional power-holders - such as employers' associations and trade unions in labor and equality matters - often enjoy privileged access to legislators, whereas NGOs representing marginalized groups struggle to be heard. Lappalainen warns that civil society "should not attach all of their hopes to the good will of politicians and civil servants" (Lappalainen, 2022). In other words, without sustained advocacy, watchdog efforts, and independent mobilization, equality law reforms could stagnate or be co-opted by more powerful interests.

#### **4. Equality Law through the HRJust Lens: Alignments and Contrasts**

The *Equality* volume's treatment of civil society engagement and legal reform provides a rich comparative mirror for HRJust's themes of human rights justifications. There are several key alignments between the book and the HRJust framework.

Firstly, *civil society is seen as a driver of legal change*: the Volume shows NGOs and activists securing anti-discrimination legislation at the EU level. Similarly, HRJust highlights how bottom-up influence supports or fills gaps left by top-down politics.

Secondly, *human rights are seen both as goal and discourse*: *Equality* approaches rights (like non-discrimination) as fundamental goals of law. HRJust, meanwhile, examines human rights as a discursive and governance tool. The Starting Line Group story shows civil society strategically using rights talk (equality, dignity, justice) to achieve concrete legal guarantees. HRJust's case studies show states invoking the same language to justify policies. The contrast lies in who controls the narrative.

Finally, there is a contrast in *methodology and approach* between the book's scholarship and the HRJust project, which leads into the discussion on the ODCSE methodology. *Equality* is a conventional academic collection – its chapters rely on legal analysis, historical narrative, and doctrinal critique. HRJust, by contrast, experiments with a participatory, empirical approach to studying law and policy. As Cristani and Fornalé (2025) describe in the context of climate litigation, the Systematic Ongoing Direct Civil Society Engagement (ODCSE) methodology “emphasizes participatory, iterative engagement with civil society to evaluate the legitimacy and accountability of human rights justifications (HRJs)” (Cristani & Fornalé, 2025). Rather than studying human rights issues solely through court judgments, statutes, or elite interviews, ODCSE proposes to involve *constant, structured collaboration with civil society actors* at all stages – from defining research questions to collecting data to validating findings.

#### **5. The ODCSE Methodology: Enhancing Scholarship and Practice**

What does this innovative methodology mean for legal scholarship like that in *Equality*? In many ways, ODCSE is a natural extension of the book's ethos. The *Equality* volume demonstrates the value of academic expertise and historical analysis in tracing the evolution of equality norms. However, the voices of civil

society, while discussed, are mediated through the scholar's lens. ODCSE would suggest a more direct inclusion of those voices in producing knowledge.

In fact, Lappalainen's chapter already implicitly moves in this direction by drawing on his dual perspective as both scholar and advocate – he cites personal communications with civil society leaders like Isabelle Chopin of the Migration Policy Group, giving the reader a glimpse of insider views. ODCSE would formalize and deepen that engagement, involving *many stakeholders collaboratively mapping out* what equality under the law really looks like today. By treating civil society actors not merely as subjects to be studied or consulted, but as partners in research, ODCSE creates a feedback loop where theory and practice continually inform each other. It aligns with emerging trends in socio-legal studies that value participatory methods and community-engaged scholarship.

Moreover, ODCSE's emphasis on iterative feedback and validation by stakeholders could strengthen the critiques and proposals in the book. Lappalainen concludes his chapter with forward-looking suggestions for civil society action, such as establishing an NGO-controlled litigation fund to enable more strategic enforcement of discrimination laws. An ODCSE approach might add to this by systematically gathering input from a wide range of civil society actors. In short, ODCSE acts as a reality check and a source of innovation for scholarly ideas – ensuring they resonate with those who would implement them.

Another enhancement ODCSE brings, as emphasized by HRJust, is the integration of gender and intersectionality at every stage. The *Equality* book certainly addresses gender equality as a topic, but ODCSE would ensure an intersectional lens is applied throughout the analysis of any human rights justification or policy.

## 6. Conclusion

*Equality (Scandinavian Studies in Law, Vol. 68)* is an insightful and comprehensive examination of equality law, notable for bridging doctrinal analysis with socio-legal context and for acknowledging the indispensable role of civil society in legal progress. The book's themes of anti-discrimination legislation, access to justice, and advocacy align closely with concerns in contemporary human rights practice, including those highlighted by the HRJust project. The Starting Line Group story in *Equality* affirms that human rights advances often begin from the ground up, with determined civil society actors turning rights from abstract ideals into enforceable guarantees. This mirrors ongoing struggles in migration and other fields, where

NGOs and communities labor to hold states accountable to human rights principles.

The volume's legal scholarship would be well complemented by the kind of empirical, participatory approach that ODCSE embodies. Bringing civil society more directly into the process – as partners in knowledge creation – could help detect and resist new forms of inequality that hide behind the language of rights. For scholars, the message is that methodology matters: combining rigorous legal analysis with continuous civil society engagement can produce research that not only interprets the world but also helps to change it in real time.

In conclusion, *Equality* Volume stands as a valuable resource for lawyers, policymakers, and activists concerned with anti-discrimination law and social justice. Its detailed accounts of legal developments and its emphasis on civil society's contributions provide inspiration and lessons for current challenges in migration and beyond. The HRJust project's proposed ODCSE methodology can build upon these lessons by offering a framework to critically assess state narratives and a blueprint to amplify civil society's voice systematically.

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