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## Incorporation of Human Rights in International Relations

### Abstract

Human rights have been firmly enmeshed in both studies and practice of international relations. The prevailing theories of international relations describe the function of those rights in substantially dissimilar ways, and it is apparent that their key statements include compelling arguments, suggesting an inconvenient apposition of state sovereignty with ideas of universal moral order. The development of the universal human rights regime of the United Nations (UN), the growth of international non-governmental organizations (NGOs), and, eventually, human rights activists have made it possible for human rights to be more deeply incorporated into state diplomatic activities. These trends, however, raise critical concerns about the practice of the state of human rights. Although there is some reversal of the norm, however, states continue to face humanitarian crises and show signs of human rights protection domestically and promotion internationally to varying degrees. In the same way, we are also seeing a major change in the principles and procedures of international enforcement of human rights. The goal of this paper is to address briefly certain variables relevant to the incorporation of human rights in international relations.

**Keywords:** human rights, international relations, liberalism, The Universal Declaration of Human Rights (UDHR), United Nations (UN)

### Prelude

Human rights are generally considered and recognized as the basic moral rights of the individual, which are essential for the existence of human dignity (Hanson & Dunne, 2009). Human rights are therefore a means to a larger societal end, and the legal structure of it informs us of the rights deemed to be the most fundamental in society at a given time. Even considering human rights



as inalienable and as a moral characteristic of individuals not contravened by public authorities, rights must also be identified – in other words, built up – by individuals and codified in the judiciary (Donnelly, 1999). Whilst theoretical and even spasmodic rights have a long tradition, it was in America and in France's eighteenth-century revolutions that national politics were developed based on broadly shared rights. Yet human rights remained, amid the rhetoric of universality, mainly a domestic matter to be embraced or not accepted until recognized in international law in 1945.

From the classical liberal perspective, a good society bases itself on the respect of equality and freedom of people, guaranteed by the application and recognition of the basic lawful rights of the individual. Liberalism is usually a synonym for personal freedom. However, previously it was imagined that the state, and not its inhabitant, is the fundamental component in international relations (Hanson & Dunne, 2009). Rather the central concept was claimed to be the state sovereignty and non-interference in states' internal matters. In this way, the topic of international human rights transfers liberalism into a realist world (Forde, 1998).<sup>1</sup> Human rights in modern international relations, to paraphrase Bentley Charles Merriam, represent the best of times as well as the worst of times (Forsythe, 2012). Revolutionary developments occurred during the half-century after World War II in terms of the diplomatic practice of internationally recognized human rights. In the Charter of United Nations, we can find the conception of human rights, which was not the case with the Covenant of the League of Nations. The Member States of the United Nations negotiated an international bill of rights, which codified that individuals had certain fundamental rights that had to be upheld and respected and later on supplemented by other treaties and declarations. In the first decade of the 21st century, the ICCPR (International Covenant on Civil and Political Rights) was formally adhered to by more than 160 states (the membership of the United Nations was 192 in 2010) (Hanson & Dunne, 2009). There have been some more impressive regional developments. In 2010, the Council of Europe, consisting of 47 States have ratified a regional convention on civil and political rights, which is generally recognized in that region, and in addition, established an international tribunal for the resolution of conflicts arising under that treaty. A supranational court to provide binding decisions and a regional convention on human rights have also defined the Western Hemisphere regarding their foreign affairs.

All states officially recognize the Geneva Conventions of 1949 and take the view that even parties participating in armed conflicts should uphold such personal

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1 For an excellent discussion of varieties of liberalism and realism.

protections. In 1993 the High Commissioner of Human Rights was approved by the UN General Assembly. In the mid-90s, the United Nations Security Council formed international criminal courts to prosecute the perpetrators of genocide, crimes against humanity, and war crimes individually in the former Yugoslavia and Rwanda for violations of the laws of war, which revived the international criminal responsibility after the 1940s Nuremberg and Tokyo trials. In 1998, the statute of a standing international criminal court with jurisdiction identical to the two ad hoc courts was accepted by a diplomatic conference in Rome. A United Nations summit meeting in 2005 reaffirmed the concept of Responsibility to Protect (R2P). Henceforth, while sovereign states were solely responsible for the defense of human rights in their territories if states proved unable or unwilling to avoid mass atrocities, it was the responsibility of third parties to intervene. Other development includes the key point that the human rights are not anymore considered as the domestic jurisdiction of a state.

In theory, regarding the treatment of the individuals, the States had to respond to the international community. Thus, foreign affairs now include not only the topic like trade & war but human rights, as well. Upon considering the human rights universally applicable, some attention has been paid to the universally recognized rights. Foreign affairs include the governance dimensions in the context of public policy management of policy matters (Rosenau & Czempiel, 1992). Part of this international governance was the commitment to human rights. Many national constitutions and many domestic public policies have long been influenced by questions about the fair value, equality, and health of individuals. Since 1945, whether the distribution of power is bipolar, multipolar, or unipolar, foreign affairs have been greatly influenced by the same questions regarding individual autonomy, dignity and security (Brilmayer, 1994).

However, perhaps the existence of inhumanity, which no other situation captured so well, when the Mao regime-induced famine in China from 1958 to 1962 costs nearly 30 million lives (Forsythe, 2012). The international community was not only unable to respond, but even several externals denied the major occurrence or incident of the catastrophe. The famine of Mao made him a bigger mass murderer than Stalin or Hitler if you judge the events by the number of lost human lives. The twentieth century was not precisely a good period for the pursuit of liberal values with much of its records of mass murder and mass suffering. About 35 million people have been estimated to have died the military conflicts in the 20th century; however, perhaps between 150 and 170 million people were killed by their governments by political assassination or mass misery (Rummel & Horowitz, 1994).

David Rieff, a reputed journalist was very perceptive in suggesting that the 20th century had the highest standards and the worst realities in contrast with the previous century (Vogel, 2003). Some have historically taken the view that European communism has been a dangerous game, despite the fall of the communist economy elsewhere, including China and Vietnam, and those who wanted significant global actions for human rights were naively optimistic (Mearshaimer, 1992).

The rise of militant Islamists or Islamic jihadists seemed to confirm this shadowy view of the uninterrupted human condition in the post-Cold War world. The Cold War ended therefore not with the absence of 'realists', those who contend that human rights in international relations must be returned to a self-interested sovereign state. However, ironically democratic realists like Henry Kissinger who were prepared to sacrifice democracy and foreign rights to advance the interests of their State, no matter how much they might be philosophical Liberals in their home countries in support of human rights and democracy.

Collectively, democratic communities had the right to protect themselves. The question arises whether, by compromising other's human rights, a democratic society can promote its protection and prosperity or not. Also, statements on universal human rights acknowledged that it was not easy to interfere with human rights issues in a little room of policy that is left over by intense national rivalry without a central administration (Nossal, 1982).

### *Human rights and international relations in the contemporary world*

Many researchers who work in the field of international relations have some sort of dilemma about human rights in contemporary discourse on world political issues. Human rights are a polite fiction in a geopolitical world governed by the claims of states to be exclusive in their jurisdiction. At least this is what political realists claim, who have been the dominant voice in international relations since the discipline arose (Hanson & Dunne, 2009).

Liberals argue that it is sensible for states to follow policies that are consistent with the standards of human rights. Constructivists, albeit for various reasons, are also critical of realism. The states argue that for purposes of identity and status, they are following human rights' goals. It reveals a significant philosophical question about the difference between 'truth' and our interpretive and explaining theories since there is an active discussion among key theories about IR as to how human rights are and why they are promoted by actors. If we consider human rights as a global culture, then we have the inherent right to ask the states and other actors to know about their duties, when it is being

systematically denied. Two areas of international responsibility will be the subject of the debate. Firstly, because of their duties under the various human rights treaties, where all states have a responsibility to protect themselves. The second dimension of international responsibility relates to states' bonus to serve as humanitarian rescuers in situations where a state fails, or a government commits severe human rights violations (Hanson & Dunne, 2009).

The normative study of international relations (IR) suggests its subject matter is 'the world of sovereign states'. In the mainstream IR, it is often popular to treat countries as rational actors trying to optimize their strength and stability. Both theories are based on what IR scholars call anarchy. In this word, the meaning is not a perpetual state of war, but the lack of an 'international state', which has the authority and power to establish peace (Hanson & Dunne, 2009).

### *Human rights as soft law*

For many players in foreign affairs, the official long-term objective is the establishment of the rule of law in support of human rights. Thus, it implies in international affairs in terms of human rights principles, as well as on those general norms which lead to cases of international and national courts protecting human rights. Cases of the Court will turn international legal standards into explicit rules providing for concrete safeguards. In this view, international human rights law will become a hard law. This is an ambitious objective, already partially achieved.

The key type of soft law which is covered by the non-judicial means such as state foreign policy, the activity of NGOs e.g., Amnesty International, the action of non-profit corporations, and the actions of the private individuals, by paying special attention to international human rights norms. When these actors follow human rights norms and principles through their different actions, this can often have a larger impact and effect than through court proceedings (Hanson & Dunne, 2009).

Global international relations will be significantly strengthened by getting Western Europe's regional international law closer to its interlocking human rights principles, as laid down by the European Court of Human Rights and the European Court of Justice – the latter ruling on some human rights issues, even though it is a forum on economic issues. Only symbolic wins on topics like the persecution of foreign torturers have been made as US courts have ruled on certain human rights issues that concern international affairs. Yet, aside from the courts and the hard law, one can make progress on human rights. The military war is a very simple example in this point. Since 1864, a variety of treaties have

codified different legal protections for individuals who are not engaged in armed conflict. A long history of normative is now visible in what is called Law on the Protection of War Victims of the Law on Human Rights in Armed conflict or the International Humanitarian Law. These legal principles are the subject of numerous books and even a few libraries. The number and national laws arising from it, however, in the last 140 years, in the national and international courts, which have important or prominent cases, is minimum by any way of estimation. The relative lack of cases of international human rights' legislation in the armed conflicts (except for Germany after World War II) does not mean that the law does not extend to armed conflicts. Instead, the legislation is primarily sponsored by the military and political decisions (as far as it is) and individual efforts by organizations such as the International Red Cross Committee (any relevant macro-evaluation, even if it is likely to point some significant occasional cases in court concerning international humanitarian laws, such as the US Court's decision in Hamdan in 2006 that the US military prison in Guantanamo Bay on the island of Cuba was subject to the 1949 Geneva Convention) (Hanson & Dunne, 2009).

A variety of human rights lawyers are still calling for more tough human rights legislation. This is a laudable goal from one point of view. The Organization for Economic Co-operation and Development (OECD) States support the idea of equality before the law for every individual. Whoever violates the law would be punished without any prejudice e.g., 'political consideration'. However, the pursuit of universal human rights principles by hard law rulings is unlikely to happen on a daily basis in the next century – and should not happen in all circumstances. All concerns that policymakers face problems - whether International courts are established, whether they are funded by adequate political and material resources and whether national courts should be encouraged to resolve human rights - on delicate foreign policy issues. The classic problem of soft law decision is when and how far human rights problems can be driven to the detriment of conventional security and economic considerations. This is the dilemma between realism and liberalism. International policies are inescapable in the management of contradictions (Hoffmann, 1977). As a result, the politicians also find it appropriate to compromise between promoting human rights and that of another public interest, such as physical protection and/or economic welfare. Many governments are still repressive and lack significant interest in supporting democratic or other rights, even following a 'third wave of democratization' (Huntington, 1991). Furthermore, in liberal democracies, public and especially corporate opinions do not always or easily support the national costs to promote foreigners' rights. As one author wrote, even in the 90s, those involved in international human rights faced several 'structural'

constraints (Donnelly, 1986). Policymakers, particularly those in OECD countries, are operating in this setting, where there can be a genuine debate about how best to advance human dignity and what can be achieved with a fair prospect of success. In the field of application of the law, political decisions also affect the enforcement of the law, including in the OECD states. More clearly, political decisions based on policy choices and power considerations are entangled in several ways with decisions mandated by legal rules. International affairs present the same basic condition, but with a much greater focus on political decisions in the process of soft law, and relatively giving less emphasis on hard law arising from courts in the adjudication process.

## Conclusion

In conclusion, it may be assumed that human rights are now a permanent aspect of foreign affairs. The relation between mainstream IR and human rights is both constructive and challenging at the same time (Hanson & Dunne, 2009). It is constructive in the view that a standardizing choice of where to begin—with a world of states or a world of individuals—inevitably leads the scholars to consider the effect of the actors on the other side of the ledger (Hanson & Dunne, 2009). The challenging aspect would be that it needs activists to be conscious of the dynamics of the world political system and the simple but inconvenient fact that there are always conflicting claims of justice on the part of various actors. The foundation of adequate resolution is certainly not necessarily the demand for fundamental rights of one constituency (Hanson & Dunne, 2009). In the practice of states, two elements of human rights protection need to be present in any claim that standard cascades are effective. Firstly, the internalization of principles of human rights globally, where citizens' rights and privileges are incorporated in national social and legal practices. Second, the externalization of these principles can be seen as a dedication to international human rights regimes and the recognition of an obligation to uphold human rights where violations are visible in other nations (Hanson & Dunne, 2009). The formulation of 'Responsibility to Protect' (R2P) leads to this second aspect of externalization (Hanson & Dunne, 2009). At the same time as granting sovereignty primacy—as well as responsibility—it focuses attention on the need for states to act outside their borders and even against other states, in order, as Nicholas Wheeler put it, to 'save strangers' (Hanson & Dunne, 2009). The need to participate in early warning and conflict prevention has also been recognized by state practice, and this is an increasing field of IR study (Hanson & Dunne, 2009).

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