

CHAPTER 7

Human rights

Agreements on prosperity or on peace are of all ages and therefore constitute a global structure. International agreements on values, on the other hand, are relatively new and represent a global trend. This is particularly the case with human rights, that received global acceptance in the second half of the 20th century and then gained global traction in the 1990s. However, this did not mean that human rights were embraced everywhere. On the contrary, many countries were quite reluctant to do so. Nevertheless, human rights became a global trend because it was a discourse almost all countries felt they needed to relate to, whether wholeheartedly or not.

Agreeing on international values: freedom and human rights

A quick scan of international agreements about values shows that they are usually about justice, freedom, human rights and equality (peace is also often mentioned, but that is not a value but a state of affairs.) One of the key characteristics of these values is that they usually lack clear definitions. They are easy to use, they can evoke strong emotions and they can make people take to the streets and start revolutions, but it is very difficult to provide accurate descriptions of them. People are willing to fight for justice, for example, but when asked what exactly they mean by that, the answer will be either vague ('no oppression') or short-term ('this government must go').

One of the values that people (and states) have managed to make tangible, is **freedom**. We distinguish between two types of freedom. One is the freedom to be allowed to do something, like voicing an opinion or professing to a religion. The other freedom is the freedom not to have to suffer from certain things, like censorship, oppression, torture or poverty. In the English language these two types are known as the freedom *of* something, and the freedom *from* something. More so than the notion of justice, these ideas about freedom could be translated into workable concepts. By the second half of the 20th century, they became the centerpiece of one of the most influential value systems of our times: human rights.

The origins of human rights are debated. Muslims and Christians claim that the fundamental rights of men are already present in their holy scriptures, the Chinese and the Africans say the same about their ancient civilizations, and the Americans and the French will argue that they were the first to write it down in constitutions. The human rights discussed here are those enshrined in international agreements that were endorsed by most states. The first of these agreements was not a treaty but the (non-binding) Universal Declaration of Human Rights (1948). This declaration was later criticized for being drafted by mostly Western countries at a time when

three quarters of the other states had yet to gain their independence. However, the binding human rights treaties were drafted much later and also included the input of many other states.

The human rights of these treaties are organized in legal terms in which two important elements stand out. First, human rights are freedoms that people – individuals or communities – can invoke against their state. Second, human rights are divided into two types. **Classical (or political) rights** are freedoms in which the state should not interfere: the government should not dictate what religion should be, what ideas should be allowed and what ideas shouldn't, and what organizations should be allowed and which shouldn't. **Social rights**, on the other hand, are freedoms that should be actively enabled and guaranteed by the state, like education, housing, nutrition. In other words, these two sets of freedoms demand opposite roles of the state: classical freedoms require the state to stand back, social freedoms to step in.

Declaration of Human Duties and Responsibilities (HDR), 1998

This non-binding declaration was drafted by experts, philosophers, artists and Nobel laureates in response to the Universal Declaration of Human Rights of 1948. For these human rights to not only be recognized but also implemented, the drafters of the HDR argued, there must be a duty and responsibility on all people and authorities to do so.

The global trend of human rights

Even though the main human rights treaties were active since the 1960s, human rights only became a global trend from the 1990s onwards. At the 1993 United Nations Conference on Human Rights in Vienna, governments from almost all states in the world voted to reaffirm the universality of human rights and there was a proliferation of international non-state actors whose goal it was to promote human rights. In most Western states, human rights became an important part of their national and foreign policy, and large sums were spent on the promotion and endorsement of human rights in the world.

By the late 1990s however, the momentum of this global push for human rights started to falter. Several factors played a role. One was that human rights were championed primarily by Western states. They made it a condition for trade or other cooperation agreements with states that had a bad human rights track record. Human rights standards had to be met for such agreements to be implemented. This conditionality may have served the world-wide endorsement of human rights, but the targeted states did not look favorably upon this method, partly because some of

these states were ruled by dictators who were violating human rights and were not willing to change their ways, and partly because it was reminiscent of colonial times with these same Western nations acting like the colonial powers they used to be, imposing 'civilizational' dictates.

Another aspect that complicated human rights policies was terrorism. In the 1990s, several countries in the Middle East and Asia were suffering from terrorist attacks within their own societies. The response of the states to these attacks was often met with criticism from Western countries for being a violation of human rights. However, when the United States suffered the 9/11 attacks of 2001 and declared the 'war on terror', many of its antiterrorism measures were not unlike those they had criticized in other countries like military courts, incarceration without trial, 'enhanced' interrogation and extended powers for police and secret service agencies. A similar change in attitude emerged in Europe after the terrorist attacks that took place between 2004 and 2015.

The human rights trend also slowed due to debates about its purpose. While human rights and democracy were seen as the ideal path to peace and development everywhere in the early 1990s, this view faced growing criticism. The premise of the human rights agenda is that a society which respects and promotes individual freedoms is more likely to enjoy economic growth than one in which collective or state rights supercede civil or political freedom. The counter argument was that there is little use endorsing human rights if basic social and economic living conditions are not addressed first. The question then was whether economic and social rights (as enshrined in the 1966 International Covenant on Economic, Social and Cultural Rights) should take prevalence over human rights, or vice versa. This principled discussion turned into a stalemate between Western countries on the one hand, and most of the other countries in the world on the other hand. In the meantime, several states, especially in East and Southeast Asia, made significant economic progress without meeting international human rights standards, thereby negating the premise that human rights are conditional to economic prosperity.

As the human rights agenda of the 1990s gradually became dormant in the 2010s, it was usurped by the new global concept of 'human security' which will be discussed in more detail in the Chapter 'Security'.

Has the global situation of human rights improved since the 1990s?

This question is hard to answer, mainly because it is difficult to qualify the 'improvement' of human rights. A perusal of international human rights reports suggests that the upholding of political and civil rights have been in decline since the 1990s. Women's rights had seen a steady improvement since the 1970s, but progress appears to be slowing down since the 2010s.

Criticisms

Even though human rights may have lost their high status on the international political agenda, there is still a consensus among all states on the need for and importance of human rights. However, different views have emerged regarding the interpretation of human rights.

The first form of criticism has to do with the premise that each **individual** human being is entitled to human rights. Especially countries in Asia and Africa consider this a typical Western approach. They argue that in their societies it is not the individual, but the **community** that has prevalence. The individual has rights, they argue, but these do not always trump those of the family, the village, the clan or the nation at large. These countries do furthermore believe that the individual approach to human rights as we know today, does not entirely fit the needs and principles of these societies.

The second criticism challenges the notion of **universality of human rights**. It argues that the human rights as framed in most of the early treaties are essentially Western constructs that deny other perspectives. This criticism is known as **cultural relativism**, which claims that values should always be seen and weighed in their cultural context. In the 1990s, 'Socialist', 'Islamic' and 'African' human rights emerged as alternative views. It can be argued that these discussions were also very political, pitting the 'global South' against the 'global North'.

The third type of criticism is the accusation that Western countries maintain **double standards** in upholding international human rights law. This criticism peaked in 2023-2025 with the war and ensuing humanitarian crisis in Gaza. The International Court of Justice and the International Criminal Court considered the Israeli response to a large-scale Hamas attack in violation of international humanitarian and human rights regulations. The fact that many Western states were unwilling to uphold these charges against Israel was considered by other states to be typical of Western double standards when applying human rights law. This situation would fuel the already growing disgruntlement of the global South vis-à-vis the global North.

Human rights and state sovereignty: the Nuremberg and Tokyo trials (1946-1948)

State sovereignty dictates that people are only accountable to their national laws. According to this legal logic, the leaders and military of Japan and Germany during the Second World War could not be held accountable for crimes as long as their actions were lawful under their own laws. The international criminal tribunals of Nuremberg and Tokyo broke with this legal principle: human rights – in this case framed as 'crimes against humanity' – could override state sovereignty.

Further reading

- Jack Donnelly, *Universal Human Rights in Theory and Practice*, Cornell University Press, 2013
- Michael Ignatieff, *Human Rights as Politics and Idolatry*, Princeton University Press, 2000
- Samuel Moyn, *The Last Utopia: Human Rights in History*, The Belknap Press, 2012
- Aryeh Neier, *The International Human Rights Movement: A History*, Princeton University Press, 2020
- Christopher Roberts, *Alternative Approaches to Human Rights. The Disparate Historical Paths of the European, Inter-American and African Regional Human Rights Systems*, Cambridge University Press, 2022
- Susan Waltz, 'Reclaiming and rebuilding the history of the Universal Declaration of Human Rights', *Third World Quarterly*, 2002, Vol. 23 No. 3, pp. 437-448