

Human Rights

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DEFINING HUMAN RIGHTS

When talking about human rights, commentators often use the terms “positive rights” to mean rights to something, for example, education, and “negative rights” to mean being free from something such as torture. Human rights can also be described as being from different generations, by which scholars mean that the fight for an agreement to certain rights occurred over time, with the ideals of the Enlightenment, the turmoil of the industrial revolution, and the movement for decolonization all producing new thinking about the rights to which one might be entitled. Many of the rights considered to be human rights have long histories and were inspired by ancient religions and philosophers. Others, such as the right to be free from slavery, are based on more modern conceptions. Most importantly, human rights are considered “universal” because they are based on one’s humanity not citizenship or identity and “indivisible” because the rights to which a human being is entitled are a package not a wish list from which some items may be chosen and others discarded. Since 1948, there has been an internationally agreed-upon definition about what constitutes human rights – the United Nations (UN) Universal Declaration of Human Rights. International agreement, however, has not ensured comprehensive protection of those rights nor ended efforts to expand the definition of human rights.

The extent to which human rights have affected diplomacy has an even shorter history, but one that is increasingly important for the contemporary world. Historically, human rights have intersected with diplomacy in many ways. Governments and their citizens have developed concerns about human rights violations in foreign lands on moral and strategic grounds. Reports of genocide can both affront one’s sense of shared humanity and raise concerns about potential destabilizing consequences. Diplomats, political leaders, and over time, non-state actors have dispensed with older diplomatic norms that suggested that state sovereignty meant what happened within a state’s borders was not a matter for foreign comment or intervention. More recently such actors argue that because human rights are at stake, the international community has the right to condemn violations and seek to end them.

Conceptions of what we would now call human rights shaped the ideological underpinnings of two of the most important political developments of the late eighteenth century – the American and French revolutions. In the 1776 Declaration of Independence, Thomas Jefferson wrote that, “all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” We know, however, that Jefferson’s declaration did not apply to all men, most notably those of African descent, many of whom were enslaved in the American colonies. Similarly, the declaration neglected to address the rights of women. Yet, in its language, Jefferson’s declaration marked an important statement not only about the type of society and government to which the United States aspired but also

about the principles that would later shape its diplomacy.

Only thirteen years later, the French Declaration of the Rights of Man and Citizen echoed the principles of Jefferson's text. The similarities were not coincidence; one of the French declaration's authors, Marquis de Lafayette, was an associate of Jefferson's, and he may have even sought Jefferson's advice on the French document. The French declaration emphasized at the outset that "Men are born and remain free and equal in rights." In the subsequent article, the declaration's authors asserted that "The aim of all political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression." Again, the declaration emphasized the unalienable nature of these rights, demonstrating that by the late eighteenth century rights were seen as residing in the individual, not in the government to convey. Yet, as with the American text, there were limits to those whose rights were protected under the French declaration.

There has been considerable scholarly discussion about how these French and American conceptions of rights as natural, indivisible, and universal arose. The historian Lynn Hunt has made an important argument that ties to the rise of empathy for others as a basis for conceptions of human rights. She identifies the role of novels in spurring a rise in French empathy in the second half of the eighteenth century (Hunt 2007: 33–34). Other scholars point to an awakening of empathy in the wake of Great Depression-era photographs (Bradley 2014: 7–8, 16–19), revulsion and horror at the Holocaust (Cohen 2012: 57), the publication of Aleksandr Solzhenitsyn's *The Gulag Archipelago* (Borstelmann 2012: 197), and feelings of guilt and shame produced by US involvement in the war in Vietnam (Keys 2014: 3, 63).

More significant for readers of this reference tool is assessing how and why concerns about human rights influenced diplomacy in the years that followed the American and French declarations. Jenny Martinez has argued that we should consider slave-trade courts in early nineteenth century Africa to be the "first international human rights courts" (Martinez 2012: 6). Other scholars have highlighted ways in which concerns about human rights, for example, shaped American diplomacy in the nineteenth and early twentieth centuries. American distress at Spanish abuses of Cubans was one factor precipitating the US declaration of war against Spain. In addition, Gary J. Bass has demonstrated that concern about rights violations shaped American responses to the 1821 Greek revolt against Ottoman rule and Americans' revulsion at reports of Armenian genocide in 1915 (Bass 2008: 95–99, 326–34).

A more pronounced effort to address human rights arose during the negotiations that produced the League of Nations. As the borders of Europe were redrawn in the wake of World War I, diplomats, nationalist leaders, and politicians were concerned about ensuring the protection of national minorities – groups living in a nation-state that did not match their ethnic, linguistic, cultural, or religious identification. League of Nations members agreed that national minorities would be guaranteed equal treatment, freedom of religion, linguistic rights, and access to education, and the organization had responsibility for monitoring respect for these rights. The protections enshrined by the League of Nations were distinct from those later articulated by the UN because they offered protection based on group membership.

UNITED NATIONS UNIVERSAL DECLARATION OF HUMAN RIGHTS

Later efforts to ensure greater protections for human rights were a reaction to the devastation of World War II and the Holocaust and also an effort by smaller states and non-governmental organizations (NGOs) to reorder international relations. Leaders in Latin America and Asia sought a greater voice in international affairs and believed a human rights agenda could facilitate their objectives. Similarly, NGOs organized around race, religion, and labor hoped the UN could offer more protection for human rights than national governments alone.

Signaling that human rights would garner greater international attention in the wake of World War II, the 1945 United Nations Charter mentioned human rights in several places, although it did not explicitly delineate those rights. Building upon the charter's commitment, the UN Human Rights Commission began drafting a document that would outline international human rights norms. Initially, the commission intended to produce a declaration and a covenant with a means of implementation. As members of the commission represented countries with different traditions and cultures, considerable diplomacy was required to reach a final agreement. Among the issues under discussion were the relationship between the rights of the individual versus the rights of society or the state and the extent to which a declaration could truly be "universal." Canadian lawyer John P. Humphrey and French law professor René Cassin were the primary authors of the declaration. Other members of the commission included former first lady Eleanor Roosevelt, Lebanese representative Charles Malik, and Chinese delegate Peng-chun Chang. As the commission debated, its members considered the destruction of World War II and former United States president Franklin D.

Roosevelt's call for a postwar world dedicated to the preservation of four freedoms: freedom of speech, freedom of religion, freedom from want, and freedom from fear, to be the foundations for their undertaking. After struggling for many months, the commission formulated a declaration of principles with no mechanism for enforcement. A covenant was not adopted by the General Assembly until 1966.

The UN General Assembly issued the Universal Declaration of Human Rights on December 10, 1948. The declaration, which was supported by forty-eight UN member-states, established an international standard of human rights. The document included thirty articles enumerating specific rights. Most significantly, the first article declares "All human beings are born free and equal in dignity and rights." The subsequent articles address three broad classes of rights: the integrity of the human being, or freedom from governmental intervention against the person; political and civil liberties; and social and economic rights. The first class, or basket, of rights includes "the right to life, liberty and security of person," and specifies the freedom from slavery, torture, arbitrary arrest, or detention. The political and civil rights articulated include the right to own property and freedom of religion and expression. The Universal Declaration also outlines economic and social rights such as the right to employment, education, housing, medical care, and food. Although no country voted against the declaration, eight representatives, from states such as South Africa, Saudi Arabia, the Soviet Union, and its allies, abstained. The declaration's adoption represented a significant achievement for those committed to greater observance of human rights internationally but the articulation of these rights could not ensure that its articles would be fulfilled consistently.

At the same time, the UN General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide, which defined genocide as “acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.” In the subsequent years, many other conventions that addressed human rights were formulated and adopted. Many years later the convention served as the legal basis for UN-created tribunals that address ethnically motivated killings in Bosnia and Rwanda.

In addition to international human rights agreements, a number of regional human rights agreements were drafted – the most important of which is the European Convention on Human Rights. Its effectiveness is due to the European Court of Human Rights, which implements the convention’s articles. The Organization of American States and the African Union also have drafted human rights charters – the American Convention on Human Rights and the African Charter on Human and Peoples’ Rights.

COLD WAR YEARS

Many priorities competed for attention within diplomatic circles, and in the years after the declaration’s adoption, economic recovery, the threat of nuclear war, the Chinese Civil War, and the outbreak of war in Korea all appeared more pressing than the protection of human rights. Despite muted interest in the issue, the declaration remained a commitment to uphold certain principles, retaining a type of moral power and offering inspiration to those whose rights were violated in the years that followed.

Nationalist movements that pushed for decolonization in the twentieth century utilized conceptions of human rights to achieve their objectives. As historian Brad

Simpson has written, anti-colonial movements saw self-determination as the “first right” that must be secured and from which other human rights would flow (Simpson 2009: 798–826). As anti-colonial movements succeeded, these newly independent countries brought renewed attention to human rights in international relations. Diplomatically, this concern played out within the UN General Assembly where the membership expanded with each new country that joined. As an outgrowth of the increasing African membership in the United Nations, two new committees were established in the early 1960s: the Special Committee on Decolonization and the Special Committee on Apartheid. Importantly, in contrast to the UN Commission on Human Rights, both of these committees could listen to petitions and initiate investigations (Burke 2010: 69).

A key moment in this wave of decolonization where human rights and diplomacy intersected was Rhodesia’s unilateral declaration of independence (UDI) from Great Britain on November 11, 1965. The step was intended to prevent the fulfillment of black Rhodesians’ rights. In response, the United States, Great Britain, and others put in place an embargo to pressure the white minority regime to reverse course. The UN Security Council acted as well, passing Resolution 217, which disavowed the UDI and urged resolution of the crisis. When that effort failed to bring change, the Security Council implemented economic sanctions against the government. Rhodesia was one of a number of pariah states at the UN in the 1960s and 1970s. Israel was also a regular target of condemnation for its treatment of the Palestinians in the occupied territories.

In conjunction with decolonization, other movements advocated for greater social and economic rights and an end to discrimination

based on gender, race, or other types of identity. In the 1960s, UN diplomats made considerable progress on that agenda. First, the UN General Assembly adopted the International Convention on the Elimination of All Forms of Racial Discrimination in 1965. The following year negotiations at the UN to draft a human rights covenant produced two texts: the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, which were unanimously adopted by the General Assembly at the end of 1966.

Human rights violations in the wake of the wave of coups that brought right-wing dictatorships to power in Brazil (1964), Uruguay (1973), Chile (1973), and Argentina (1976) prompted considerable diplomatic efforts to alleviate abuses there. Publicity from human rights organizations such as Amnesty International as well as activism by exiles and their supporters inspired considerable diplomatic efforts by foreign governments and regional and international organizations such as the Organization of American States and United Nations to press for greater adherence to human rights standards. Their efforts included fact-finding missions, public condemnations, and quiet diplomacy.

One development fueling the increased pressure on repressive regimes in Latin America was globalization. Faster and more affordable travel and communication facilitated the collection and dissemination of information about human rights abuses, which was a critical component of the transnational human rights campaign (Cmiel 1999: 1232). Such trends also aided diplomatic efforts to address human rights violations.

In his four-year presidency (1977–81), Jimmy Carter drew considerable attention to international violations of human rights, and he made addressing those abuses a priority in United States foreign policy. As president,

Carter undertook several high profile actions to signal his emphasis on human rights, including corresponding with Soviet human rights activist Andrei Sakharov and admonishing Eastern European governments over their repressive activities. Carter's administration used a number of diplomatic tools to pressure states to improve their respect for human rights such as reducing their economic aid and assistance from the World Bank, the International Monetary Fund, and the Inter-American Development Bank. Carter's new approach, however, had its limits. Despite Carter's rhetoric and several early steps to institutionalize attention to human rights in United States foreign policy, his commitment to the issue was overcome by the limits of American power, arms control negotiations, and other Cold War priorities. The US response to the Cambodian genocide, in which approximately 1.7 million Cambodians died out of a total population of around 7 million, was one of the most notable examples of American inattention to human rights violations due to broader strategic goals.

Given the ongoing human rights violations imposed by South Africa's system of apartheid, or codified racial discrimination, its government was subject to considerable diplomatic pressure. International attention and condemnation became more focused after a June 1976 police crackdown on school children in Soweto. Within the region, South Africa's response enhanced its diplomatic isolation. Internationally, South Africa was subject to widespread condemnation, including an arms embargo imposed by the UN Security Council. External actors sought to exert pressure through formal and informal diplomacy, including reducing sports contacts, limiting economic ties, introducing codes of conduct, and imposing sanctions (Barber and Barratt 1990: 204, 214, 228–29).

The Soweto protests and the government's response prompted prolonged and sustained

anti-apartheid activism. In the years that followed, a number of international organizations and countries implemented a wide range of sanctions against South Africa. Furthermore, a movement for divestment led many multinational corporations to pull out of South Africa in the mid-1980s. The United States Congress passed the Comprehensive Anti-Apartheid Act in 1986, which blocked new American investment and loans, as well as landing rights, and imports, including coal, uranium, iron, steel, and the European Community and the Commonwealth also enacted sanctions. After years of sustained internal and external pressure, South African whites voted in favor of a new non-racial constitution in March 1992, leading two years later to the first South African election in which all races could vote.

Human rights played a meaningful role in the diplomacy that led to the end of the Cold War in Europe in the late 1980s and early 1990s. Bilateral negotiations between Soviet leaders and their American, British, French, and West German counterparts time and again focused on improving human rights conditions in the Soviet bloc. In addition, vital multilateral fora such as the Conference on Security and Cooperation in Europe (CSCE) made adherence to human rights norms a principal focus of their meetings. These negotiations produced important achievements such as meaningful commitments to enhance religious freedom, facilitate the spread of information, and more firmly respect human rights. In 1989, many protests were inspired by human rights principles, and ideas about human rights shaped Soviet and Eastern European reform (Horvath 2005: 1, 3, 237).

Human rights activism in Eastern Europe shaped the revolutions there through the development of a “second society” in the Soviet Union, Hungary, Poland, Czechoslovakia, and elsewhere (Leatherman 2003: 222).

This “second society” was made up of people who supported varied political and social causes including human rights activism, and their participation prepared them to participate in postcommunist leadership in meaningful ways. In the preceding years, Western states, organizations, and individuals supported these movements financially, morally, politically, and diplomatically. Due to these internal and external efforts, structures were more readily available to replace the Communist Party.

In those same years, human rights in Asia were also the focus of considerable diplomacy. Most significantly, the Chinese crackdown on demonstrators in Tiananmen Square in June 1989, which led to many killed and injured, precipitated an international response. The reaction was due in part to the wide reports on the Chinese military action in the international press; it was covered dramatically by CNN, the cable news network. After Tiananmen, the Chinese human rights record garnered sustained attention by governments and NGOs alike. The United States signaled its displeasure by suspending weapons sales, military contacts, and high-level diplomatic meetings, among other steps. The European Community instituted a range of diplomatic and military sanctions, and France offered asylum to Chinese activists. In addition, Japan ceased talks on a significant loan to China. At the UN, the Subcommission on Prevention of Discrimination and Protection of Minorities condemned Chinese actions (Foot 2000: 115–23). Yet, the international response to Tiananmen also showed that states often overlooked human rights violations if it served their strategic interests.

Events in Yugoslavia signaled that even in Europe, the end of the Cold War would not usher in a new era of protections for human rights. In the wake of a March 1992 referendum, Bosnia Herzegovina declared its

independence and fighting broke out among the three ethnic groups within Bosnia. The United States and European governments were aware of ethnic cleansing within Bosnia, particularly of camps in which Bosnian Muslims were held and subject to increasing atrocities, but did little to end the abuses there.

Not until after Bosnian Serbs entered the UN safe haven at Srebrenica in July 1995 and killed some 7000 Bosnian Muslims there and the August 1995 bombing of a Sarajevo market, did the United States and its partners in the North Atlantic Treaty Organization (NATO) respond. NATO undertook a three-week bombing campaign in August–September 1995, that, along with a Croatian and Bosnian Muslim ground offensive against the Bosnian Serbs, precipitated a ceasefire. After considerable negotiation, all sides agreed to the Dayton Peace Accords on November 21, 1995. The agreement outlined a unified Bosnian state divided into autonomous regions to be governed by a three-person presidency. In 1999, ethnic cleansing in Kosovo threatened to destabilize the region, prompting NATO intervention again to end the violence.

Less diplomatic attention was devoted to Rwanda where as many as one million were killed in 1994 – one of the world's most staggering genocides since the Holocaust. The conflict was defined by the large-scale slaughter of one ethnic group, the Tutsis, by a second, the Hutus. The international community did little militarily or diplomatically to end the killings until much of the genocide had been curbed.

HUMAN RIGHTS NGOS

The establishment of NGOs devoted to human rights such as Amnesty International and Human Rights Watch led to greater international attention to violations worldwide

and increased pressure on governments to address abuses through their diplomacy. Amnesty International, established in 1961, highlighted the plight of political prisoners through letter-writing campaigns by its members. Their efforts were largely directed at the officials responsible for a prisoners' confinement, but members also sought to influence their own governments to exert diplomatic pressure in response to human rights violations.

Human Rights Watch, established in 1988, expanded upon its predecessor Helsinki Watch's earlier mandate to monitor human rights conditions in the Soviet Union, Eastern Europe, and the United States, addressing human rights violations in Latin America, Africa, and Asia as well. Alongside Amnesty International, Human Rights Watch became one of the most prominent human rights organizations internationally. Helsinki Watch and then Human Rights Watch influenced international diplomacy on human rights by publishing comprehensive research reports that were relied upon by policy-makers, journalists, and others involved in the cause. The group exerted pressure on diplomats and politicians by issuing press releases, writing op-eds, speaking out publicly, and approaching policy-makers directly.

In the wake of the end of the Cold War, Amnesty International, and Human Rights Watch spread their influence geographically, raised significant financial resources, and garnered considerable media attention. Many human rights activists continue to do dangerous work with limited resources and fail to reach or sway responsive audiences. Diplomats and diplomatic initiatives have been responsible for expanding notions of what is meant by human rights. As those definitions have broadened, diplomats, politicians, and non-state actors have worked together to secure protection for newly defined rights internationally.

HUMAN RIGHTS TODAY

In the wake of the terrorist attacks on the United States on September 9, 2001, governments have increasingly grappled with how to balance preventing terrorist attacks and respecting human rights. The American struggle to achieve these dual aims precipitated a scandal of significant scope when photos depicting abuses at a prison in Iraq known as Abu Ghraib were released in 2003. The abuses depicted at Abu Ghraib were the result of what was termed “enhanced interrogation techniques,” which included threatening a detainee with death or torture; exposure to cold; waterboarding, which created the sensation of suffocation; and grabbing, poking, and pushing. A 2014 Senate report on the George W. Bush administration’s torture program determined that 39 detainees had been subject to torture; that the use of these interrogation techniques did not produce intelligence that averted terrorist attacks; and that instead torture led to false confessions and inaccurate information.

Most damaging to the United States’ international reputation and its diplomatic efforts has been the indefinite detention of prisoners in Guantanamo Bay, Cuba. George W. Bush’s administration characterized detainees in the proclaimed “war on terror” as “illegal enemy combatants.” In order to detain these “enemy combatants,” the United States established prison facility at its naval base in Cuba. The lack of due process accorded detainees, use of torture against prisoners there, and indefinite nature of detentions, however, have made the US government and its prison in Cuba a target for human rights activists, legal scholars, and critics. It has also undermined support for the United States in the Muslim world and beyond. During the Obama administration, international condemnation of US practices has expanded to include criticism of strikes by unmanned drones.

Although growing attention to international terrorism precipitated many abuses of human rights, in the same years, diplomats at the UN and elsewhere worked to create new institutions and principles to ensure that human rights were fulfilled. For example, international negotiations produced the 1998 Rome Statute, an agreement signed by 120 countries to create an international criminal court. The institution was established in 2002, and the International Criminal Court has sought to hold violators of human rights accountable for their abuses. It serves as a successor to the ad hoc criminal tribunals previously formed to address ethnic killings in Yugoslavia, Rwanda, and elsewhere. Furthermore, in response to growing concerns about how the UN responded to humanitarian and human rights crises, in 2001 the International Commission on Intervention and State Sovereignty published a report outlining Responsibility to Protect (R2P). The report articulated a new doctrine to facilitate interventions in the face of humanitarian crises and massive violations of human rights and suggested the responsibility for offering such protection should be borne by the international community.

Assessments for the future of human rights and institutionalized efforts to protect those rights are mixed. For example, political scientist Stephen Hopgood has argued that the type of human rights that he defines as “a global structure of laws, courts, norms, and organizations that raise money, write reports, run international campaigns, open local offices, lobby governments, and claim to speak with singular authority in the name of humanity as a whole” is approaching its end in the international community (Hopgood 2013: ix). Just as in World War II’s wake the beginnings of the Cold War overshadowed human rights, currently, financial considerations, international terrorism, and the flow of refugees are often more pressing

considerations in international diplomacy than human rights.

SEE ALSO: Carter, Jimmy (1924–); Decolonization and Diplomacy; Diplomacy and Apartheid; Humanitarian Diplomacy; Non-State Actors and Diplomacy; United Nations

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