Abstract and Keywords

This chapter analyzes the status and conception of human rights during the Cold War. It suggests that attempts to define, codify, and protect human rights during the Cold War consisted of a series of discontinuities, intersections, and appropriations in which the area of contestation was the scope and content of the term itself. The chapter also discusses how the Cold War influenced different human rights projects, and explains how the eagerness of both the East and West to use human rights issues to wage the conflict raised the profile of human rights.

Keywords: human rights, Cold War, East, West, conflict
In stark contrast to the cold war's division of the world into two antagonistic blocs, ideas about universal human rights brooked no global divides: they were predicated on a belief that the most important identity was a common humanity. Such ideas predated and outlasted the cold war and, while the conflict persisted, became powerful enough to play a role in ending it. As Akira Iriye writes in this volume, the cold war "can be considered to have been a footnote to human rights history, not the other way around." Though often used by both sides as a vehicle for propaganda battles, developments in the field of human rights were never more than partly subsumed by the bipolar political struggle. Along with other forces to which they were closely tied—the rise of nongovernmental organizations, globalization, a growing sense of interdependence, and changes in technology and communications—issues of human rights often transcended cold war dynamics, and when they became a mass movement it was as an alternative to cold war politics.

Chronicling attempts to define, codify, and protect human rights during the cold war is best conceived not as a linear and unitary narrative of progress in the face of resistance but rather as a series of discontinuities, intersections, and appropriations in which the scope and content of the term itself was always an area of contestation. A kaleidoscope of state and nonstate actors, at different times and in different forums but always with political motives, picked up the mantle of human rights and invested the concept with varied meanings. At times used domestically to combat repression, universal human rights were more often a program for export: a means of restraining abuses elsewhere. The United States played a central role in the first phase of defining human rights at the United Nations, where an emphasis on the civil and political rights of individuals prevailed and measures were limited to codifying, rather than enforcing, norms. By the 1950s the main movers behind a revised human rights agenda were Third World countries advocating collective rights such as self-determination. A new phase began at the end of the 1960s, as leftist disillusionment with socialist reformism after the failure of the Prague Spring and the Vietnam War's undermining of the cold war consensus created an opening for new ideas to take hold. In this environment, human rights seemed to offer a compelling, politically neutral moral calculus that transcended cold war issues as the organizing principle for international affairs. A mass movement arose, spearheaded by a new cohort of nongovernmental organizations (NGOs) engaged in information-gathering and publicity campaigns against individual countries, often focusing on sensationalist integrity-of-the-person abuses. By the end of the cold war, when human rights emerged as the world's dominant moral language, it did so partly because the term had become so capacious that it could support a wide array of political agendas.

The cold war shaped these diverse human rights projects in several important respects. The eagerness with which both East and West at times used human rights language to wage the conflict—and to justify its existence and magnitude—raised the profile of human rights. Cold war competition endowed world public opinion with great significance, an effect that could sharpen the pressures on each side to adhere to human rights standards. When worldwide press attention, fanned by Soviet propaganda, turned the spotlight on
US racial discrimination in the 1950s and 1960s, for example, the cold war imperative pushed the executive branch toward reforms at home. In similar fashion, dissidents in the Soviet bloc harnessed global public opinion in their successful efforts to give meaning to the human rights provisions of the 1975 Helsinki Final Act. More often, the influence of the cold war worked to undermine the promotion of human rights in practice. Communist bloc regimes used Western hostility to legitimize their own suppression of human rights. In the West, many believed that the struggle against communism was, at its core, a struggle for human rights that superseded all others and justified overlooking human rights violations committed by anticommunist allies.

One of the few areas of superpower consensus on human rights was a mutual desire to avoid genuine supranational oversight. Most postwar human rights advocacy aimed at empowering the individual against the state. All states, whether East or West, North or South, had a level of shared interest in protecting state power. While eager to trade accusations across the floor of the General Assembly, neither the United States nor the Soviet Union was willing to endow the UN with powers that infringed on state prerogatives. As both sides fought propaganda battles against each other on human rights questions, they simultaneously mounted a less conspicuous rearguard action against the diminution of untrammeled, unsupervised state sovereignty. This defensive campaign was overt and brutal in the case of the Soviet bloc, and more contradictory and subtle in the West. Neither approach succeeded in halting the limited and uneven shift toward international accountability that gained momentum in the 1970s.
Contestation and codification

Horrified by the Second World War's record of carnage, many policymakers and intellectuals seized on human rights and democratization as means of preventing another such conflagration. The interwar rights machinery had centered on protecting the rights of collective minorities, but in the wake of the destruction wrought by fascist dictatorships, a new consensus arose that the rights most in need of protection were the rights of individuals. Already during the war, the Allies had begun to use human rights language in describing their war aims. In the 1942 Declaration by United Nations, for example, representatives of twenty-six Allied and twenty-one other nations declared their intent “to preserve human rights and justice in their own lands as well as in other lands.”

None of the war's victorious great powers, however, was eager to see human rights embedded in the Charter of the new United Nations. It was the weight of public opinion and pressure applied by nongovernmental organizations, about forty of which were official consultants to the US delegation at the San Francisco conference of 1945, that convinced US policymakers to press for human rights provisions as part of the new body's mandate. The result was the inclusion of more than a half-dozen references to human rights in the Charter, including in Article 1 setting forth the principal purposes of the organization: “to achieve international cooperation in . . . promoting and encouraging respect for human rights and for fundamental freedoms for all.” Articles 55 and 56 commit members to take “joint and separate action” to promote “universal respect for, and observance of, human rights.” The Charter thus became the first international treaty to refer to human rights in general, rather than to the rights of specific groups.

Contrary to popular myth, the new attention to human rights did not stem from revulsion at the horrors of the Holocaust, as the marginal attention paid to genocide shows. Rather, the human rights references in the UN Charter were largely cosmetic. If they pointed to a new reading of international relations, one in which states have a duty to promote universal respect for human rights, such a reading was contradicted by provisions that shielded states from attempts at enforcing rights. Article 2(7) of the Charter reads: “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State . . . .” During the cold war, states accused of human rights violations commonly cited Article 2(7) as protection against international action.

Advocates of human rights within the United Nations originally intended to draft a legally binding “international bill of human rights.” The delays that beset this project, though often blamed on the cold war, owed more to superpower condominium than to superpower rivalry. In 1947 (and again later) both the United States and the Soviet Union, against the wishes of many smaller states, worked hard to forestall any document that might have enforcement powers. It was principally at their insistence that the first UN human rights document was a nonbinding declaration rather than a binding treaty.
Signed in 1948 in the shadow of the Eiffel Tower in Paris and then passed by the General Assembly in New York, the Universal Declaration of Human Rights (UDHR) is the foundational document of the postwar human rights regime and a reference point for all subsequent discussions of human rights. Drafted by a commission headed by Eleanor Roosevelt, it has often been criticized as embodying Western values, despite its drafters’ care in drawing on many political and cultural traditions. Billed as “a common standard of achievement for all peoples and all nations,” it contains civil and political rights—such as the right to life, liberty, and security of the person, to fair trial, property, and freedom of movement and religion, and prohibitions on slavery, torture, and arbitrary arrest—as well as economic and social rights, including the right to work, to education, and to an adequate standard of living.

The Soviet Union, which abstained from the vote on the UDHR, opposed it on the grounds that it undercut the principle of state sovereignty. The Soviet conception of rights differed sharply from Western, liberal notions of rights as a protection from state power. According to the Soviet view, the interests of state and individual were coterminous. Rights did not inhere in individuals by virtue of their humanity but derived from the state and reflected its stage of development. Andrei Vyshinsky, the veteran prosecutor of the Stalinist show trials, lectured the UN that rights “could not be conceived outside the state” and that in the Soviet Union, “the state and the individual were in harmony with each other.” As internal repression moderated after Stalin’s death in 1953, however, the Soviet Union came to see benefits in the propaganda value of embracing elements of the UN human rights program. Not surprisingly, the Soviet bloc, which systemically violated almost the entire corpus of civil and political rights, discounted them in international forums. It emphasized instead social and economic rights, where the communist track record could be presented somewhat more favorably.

Having passed the UDHR, the United Nations turned to the drafting of binding human rights treaties. The cold war had a major impact on this process, as the United States succeeded in splitting what had initially been intended as a single human rights covenant into two separate ones. The Eisenhower administration argued that there was a fundamental distinction between civil and political rights, on the one hand, and social and economic rights, on the other, in that only the first group were legally enforceable. Fearing that a split into two sets of rights would relegate social and economic rights to a secondary status, many countries, including the Soviet Union, argued unsuccessfully for a single covenant. Cold war maneuvering, and the complexities and difficulties inherent in writing documents with enforcement power, delayed the drafting for nearly two decades: it was not until 1966 that the General Assembly approved the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

Although the initial postwar efflorescence of rights owed much to US NGOs, often working in concert with an activist Truman administration, the leadership role of the United States was soon subordinated to cold war concerns and remained submerged until the 1970s. In the early 1950s, fearing that human rights treaties would undermine US
sovereignty and mandate such radical social and economic programs as desegregation, the Senate very nearly passed a Constitutional amendment sponsored by Ohio Republican John Bricker to overturn the provision that made treaties the supreme law of the land. Bricker claimed to see a “similarity between the Soviet Constitution and the proposed Human Rights Covenants” then being drafted at the UN: both, in his view, were antithetical to American values. President Eisenhower, who opposed the amendment’s limitations on executive power, succeeded in preventing its passage, but at the cost of withdrawing from genuine participation in the drafting of the UN covenants. In 1953 Secretary of State John Foster Dulles announced that the administration would “favor methods of persuasion, education and example rather than formal undertaking which commit one part of the world to impose its particular social and moral standards upon another part of the world community.”

Codification and, to a lesser extent, enforcement of human rights standards also occurred in regional forums. Within Europe, human rights became embedded in the process of European reconstruction and integration. West European governments acceded to a steady accretion of legal and multilateral human rights policies, creating a system in which participants surrendered a degree of sovereignty to regional human rights institutions. The Council of Europe, founded in 1949 to facilitate European integration, made respect for human rights a condition of membership. The European Convention for the Protection of Human Rights and Fundamental Freedoms, limited to civil and political rights, entered into force in 1953. It granted strong monitoring powers to the European Human Rights Commission and authoritative decision-making powers to the European Court of Human Rights, formed in 1959. Under this regional regime, European governments allowed individuals and NGOs to bring complaints for binding decisions.


Despite erecting an impressive edifice of conventions, covenants, and declarations, the United Nations in its first decades effectively ignored actual human rights violations. Enthusiasm for linking the soaring rhetoric of abstract rights with the miserable reality of specific violations was scarce on both sides of the cold war divide. Nowhere was the relative importance of state and individual more apparent than in the treatment of the thousands of complaints from individuals alleging violations of human rights that poured in to the UN Human Rights Commission from across the world beginning in 1945. In 1947 the Commission formally renounced any power to investigate the correspondence, creating instead a system for filing complaints, in place until 1967, that one participant called “the most elaborate wastepaper basket ever created.”

Throughout the 1950s and 1960s, a loose coalition of Asian, Arab, and African states took the initiative in human rights, as decolonization created an agenda that often bypassed the conventional cold war divide. Newly independent states from across Asia in the 1950s, and Africa in the 1960s, radically re-ordered rights priorities around anti-racism, development, and self-determination. The growing Third World pioneered aggressive new
methods that implied vastly less respect for assertions of domestic jurisdiction—that is, unless the jurisdiction in question was their own. Beginning at the 1955 Asian-African Conference in Bandung, Indonesia, when the Third World emerged as a political force, delegates showed an obvious engagement with human rights, which were often incorporated into the demands of the broader anti-colonial liberation movement. As early as 1949, in negotiations on a draft Convention on Freedom of Information, these states disrupted any notion of a bipolar cold war dynamic with initiatives that were incompatible with both the legalistic liberalism of the West and the uncompromising totalitarian positivism of the communist bloc.

The Third World crusade to add a right to self-determination to the pantheon of rights that had been agreed to in 1948 exemplified the changing configuration of the debate. Proposals for the right to self-determination were met with unsurprising hostility from European colonial powers, but the United States and the Soviet bloc scrambled to find friends and advantage. US delegates sought to co-opt self-determination as a weapon against Soviet imperialism. Conversely, Soviet representatives sought a narrow definition replete with anti-colonial condemnation and "respect for sovereign rights . . . without exception." Yet in the boldest statement of self-determination, the landmark 1960 Declaration on Colonialism—the most cited resolution in UN history—African and Asian states rejected the overtures of both sides, refusing Soviet and Western amendments. Given their growing numbers in the General Assembly, the imperative for compromise on the part of the "South" was rapidly receding by the 1960s. Increasingly, the reality of UN human rights diplomacy for Western and communist delegations alike was session after session of reactive measures and marginalization.

Third World dominance changed the order and emphasis of the rights being promoted. It also shifted the means permitted for monitoring and protection. A core issue was the treatment of petitions by individuals; they begged the question of whether individuals were proper subjects under international law, which had previously been limited to states. Third World countries ensured that the 1965 International Convention on the Elimination of Racial Discrimination (ICERD), for example, included an optional petition system, a precedent that strengthened the case for petition in the 1966 ICCPR, where a petition system was included as an optional protocol. Under ICERD states could opt in to the jurisdiction of a monitoring Committee on the Elimination of Racial Discrimination (CERD), which could investigate the complaints of individuals once all domestic remedies had been exhausted. For the first time individuals could appeal to a UN human rights body that stood above their states. Similar monitoring and investigating provisions were granted to committees on colonialism and apartheid, which began to target the pariah states of Portugal, Rhodesia, and South Africa. A more radical move in the Commission on Human Rights came in 1967. Building on the logic that made colonialism and apartheid allowable topics for review, an alliance of Western, African, and Asian delegates extended the criteria to allow the study of all petitions “which reveal a consistent pattern of violations of human rights.”
Only on paper, however, was the right of petition a major step toward enforcement of the UN's human rights instruments; as a means of redress for real individuals, it was entirely ineffective. CERD, for example, did not hear its first petition until 1984 and did not issue its first ruling until 1988—two decades after the General Assembly adopted the convention—and only a small minority of states recognized its competence. Even within the rarefied world of UN debates, Third World espousal of human rights soon devolved into farce. In 1968, Nigeria spoke in favor of a legally impressive petition procedure, even while Federal Nigerian forces were waging a ruthless campaign against secessionist Biafra that created arguably the worst humanitarian emergency since 1945. On the 20th anniversary of the UDHR, an assembly of dictatorships gathered, appropriately, in Shah Reza Pahlavi's Tehran for the UN World Conference on Human Rights. Led by the Shah's sister, a number of delegates openly questioned the universal validity of the UDHR that they were ostensibly celebrating and exalted instead the primacy of economic development. The remainder of the program was consumed by ritualistic denunciation of friendless regimes: Israel, South Africa, and Portugal. As the 1960s closed, absolute monarchs and Soviet clients allied to diminish the status of civil and political rights as second-order freedoms subordinated to modernization, an agenda that would evolve into the authoritarian New International Economic Order of the 1970s. The same climate of "Southern" dominance that enabled a right to petition also facilitated the passage of the notorious 1975 UN Resolution 3379 declaring Zionism "a form of racism."  

**International mobilization and the human rights "boom"**

Defining and codifying human rights at the United Nations, in regional forums, and in corridors of state was a quiet process that rarely affected the lives of individuals and attracted little public interest before the 1960s. The rise of social protest movements in the 1960s, however, changed the international terrain. During the 1970s, a transnational mass movement rose to prominence by appropriating human rights as its central rallying cry, and stories of human rights abuses became common features in Western media. The term "human rights," little used even by a nascent cohort of activists in the 1960s, became a ubiquitous watchword. Whereas earlier NGOs had focused their efforts on the UN or on private pressure on governments, the movement that emerged at the end of the 1960s adopted new tactics: gathering detailed information on individual cases, publicizing it in ostensibly neutral reports, and generating public and government pressure on offending states. Like states, NGOs approached human rights with their own agendas, shining a spotlight on some abuses while ignoring or downplaying others. Many Western NGOs, for example, focused in the 1970s on emotionally resonant abuses such as the state-sponsored torture and disappearance of young middle-class men and women suspected of political subversion in Brazil, Uruguay, Chile, and Argentina or the
release of political prisoners in Indonesia, while other kinds of violence—such as killings and abuses during the Indonesian invasion of East Timor—fell off the radar screen.36

By the early 1970s Western governments and the Soviet bloc had moved toward a less ideological approach to fighting the cold war, one that entailed greater tolerance by the West of internal repression in the Soviet bloc. The architects of East-West détente emphasized non-interference in the internal affairs of sovereign states as the basis for cooperation. The transnational human rights movement emerging at the same time challenged this premise, arguing that global security and internal affairs, in the form of respect for human rights, were intertwined. Alexander Solzhenitsyn encapsulated this sensibility in his 1972 Nobel Lecture. “No such thing as INTERNAL AFFAIRS remains on our crowded Earth,” he declared. “Mankind's salvation lies exclusively in everyone's making everything his business, in the people of the East being anything but indifferent to what is thought in the West, and in the people of the West being anything but indifferent to what happens in the East.”37

Solzhenitsyn, physicist Andrei Sakharov, and other Soviet dissidents created a human rights movement behind the iron curtain that eventually affected the nature and course of the cold war. The dissident movement was a distinctly Soviet phenomenon that sprang from internal sources but harnessed the cold war's competition for global public opinion to its own ends—and in a twist that surprised almost everyone, thereby helped to bring the conflict to a close. The Brezhnev-era dissident movement originated in the years after Stalin's death in 1953, when Soviet Premier Nikita Khrushchev set in motion de-Stalinization and a cultural “thaw” that allowed an extraordinary intellectual ferment, including public discussion of some of Stalin's crimes. In 1964 Khrushchev's successor Leonid Brezhnev instituted a “re-Stalinization,” signaling the end of the thaw with the arrest and trial of writers Andrei Sinyavsky and Yuli Daniel for publishing “anti-Soviet” stories abroad. The protest against the trial by over a hundred intellectuals in Moscow's Pushkin Square in December 1965 marked the birth of the Soviet human rights movement.38

Civil rights activists in the United States had adopted civil disobedience—defiance of laws—as a primary tactic in the struggle to secure domestic human rights. The distinctiveness of the Soviet movement lay in its embrace of civil obedience: the demand that the government adhere to its own laws.39 Some dissidents, the so-called politiki, argued that the system had to be overturned. But the most influential strain of thinking in the Soviet human rights movement was represented by the zakonniki: those who tried to persuade the Soviet government to respect its own laws and the international agreements it had signed. Thus, the signs that the Pushkin Square demonstrators carried in 1965 called for an open trial and respect for the Soviet constitution, and the petitions that human rights activists sent to the Soviet regime routinely referred to the Soviet constitution and Soviet laws.40
The cold war served as a lever for the zakonniki in that Western public opinion soon became their main audience. Appealing to Western publics was an integral part of dissident strategy: the goal was to generate external pressure that would impel the Soviet regime toward reform. The best-known dissident organizations—the Initiative Group for the Defense of Human Rights, formed in 1969; the Moscow Committee for Human Rights, formed by Sakharov, A. N. Tverdokhlebov, and Valerii Chalidze in 1970; and the activists who published the Chronicle of Current Events, the chief human-rights-related samizdat serial—all had extensive ties with Western media and nongovernmental organizations. Though shaped by internal factors, the movement was also influenced by international ideas about human rights. From its beginning on April 30, 1968, for example, each issue of the Chronicle began by reprinting the UDHR's Article 19 on freedom of opinion and expression, using the international document to legitimize its propagation of information.

(p. 494) The environment of the cold war magnified the international salience of the dissident movement. Solzhenitsyn's The Gulag Archipelago, a massive, meticulously researched chronicle of torture, forced labor, and deprivation in Soviet prison camps, profoundly affected Western views of the Soviet Union when it was published abroad in 1973. Solzhenitsyn, Sakharov, and other dissidents became household names because many in the West viewed them as moral beacons, willing to suffer harassment, arrest, exile, and imprisonment, including in brutal psychiatric facilities, for criticizing the Soviet regime. Their courage renewed the Western public's interest in the internal affairs of the Soviet Union, an interest signaled by Solzhenitsyn's 1970 Nobel Prize in Literature and Sakharov's 1975 Nobel Peace Prize. Though sometimes greeted with a caution that amounted to cowardice—in 1969, for example, UN General Secretary U Thant instructed UN offices not to accept petitions from Soviet dissidents—the Soviet human rights movement discredited détente's marginalization of human rights.

Soviet-bloc dissidents aligned with and reinforced other trends that recast human rights with new international force in this period. In 1967 a military junta seized power in Greece, claiming to save the country from communism. The establishment of a military dictatorship in “the cradle of democracy” and the junta's widespread use of torture against political opponents caused public revulsion in Europe and the United States and led to important changes in international human rights law. For the first time countries party to the European Human Rights Convention lodged a case against another government when no clear national interest was at stake. An investigation by the European Commission concluded that the Greek government had violated the Convention, and Greece withdrew from the Council of Europe rather than face expulsion.41

The European response to the Greek coup d'état, coming at a time when the European Community was making its first appearance on an international stage, brought the issue of European values to the fore. It was partly for this reason that Western Europeans began to push hard for the inclusion of human rights and human contact provisions as part of the Conference on Security and Cooperation in Europe (CSCE). The Soviet Union proposed this multilateral European conference, which began in 1972 and involved thirty-
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three European countries along with the United States and Canada, as a means to obtain formal recognition of the territorial status quo in Eastern Europe. West European governments urged that “respect for human rights and fundamental freedoms” be included as a basic principle of relations among European states. The Soviet Union opposed these efforts, and the Nixon and Ford administrations, viewing human rights as an obstacle to East-West détente and a destabilizing factor in international affairs, were at best indifferent.

It was primarily due to the insistence of West European governments that the CSCE’s final product, the Helsinki Accords of 1975, included a set of provisions on humanitarian cooperation endorsing the view that protection of human rights was linked to international security. The Helsinki Final Act’s Basket I, Principle VII stated: “The participating States will respect human rights and fundamental freedoms... They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms.” All parties further agreed to act in conformity with the UDHR and to fulfill obligations in the human rights covenants and other instruments to which they were signatories. The Helsinki Final Act represented a further shift in the status of international human rights from purely internal matters to legitimate subjects of international action.

The Soviet regime signed the accords in the expectation that the value of what they gained—recognition of the status quo in Eastern Europe—outweighed the disadvantages imposed by human rights provisions that they intended to ignore. In the United States the potential significance of the human rights provisions was also largely unrecognized. Critics charged President Gerald Ford with “selling out” Eastern Europe in a “new Yalta,” and dissatisfaction with the trade-offs of the Helsinki Accords contributed to his loss in the 1976 election. Ultimately, however, the Accords paid extraordinary dividends, sparking an unprecedented campaign of mobilization within the Soviet bloc. In 1976 physicist Yuri Orlov formed the first Helsinki Watch Group in Moscow, aimed at monitoring Soviet compliance; similar groups were soon formed in Czechoslovakia and Poland and in the West. The result was far greater public mobilization in both East and West around human rights issues in the Soviet bloc. By 1978 Brezhnev would lament that human rights constituted the West's “main line of attack against socialist countries.”

Like the Helsinki Accords, the rapid growth of domestic and international NGOs devoted to human rights was both a manifestation of the human rights “boom” that occurred in the 1970s and a major catalyst for it. While NGO activities were influenced by the cold war, their rise—both in the field of human rights and more generally—was largely independent of the superpower conflict. The 1970s saw the rise of human rights NGOs that harnessed the media and created an “information revolution” to achieve their aims. The few older NGOs devoted to human rights, such as the New York-based International League for the Rights of Man, had operated largely behind the scenes, investigating abuses, compiling reports, and then lobbying the UN. The deliberate use of publicity gave the new groups greater power to influence policy and shape global opinion, in particular through the dissemination of ostensibly apolitical reports on abuses around the world.
Amnesty International, founded in London in 1961, was a major global organization by the mid-1970s. It garnered significant global respect—it was awarded the Nobel Peace Prize in 1977—and published reports on abuses in many countries that became required reading for diplomats. Although Amnesty received the most media attention, it was just the tip of a pyramid of local, regional, and transnational networks, comprised of activists, academics, émigrés, lawyers, church groups, and others. It was typically the work of local people on the ground in collecting and disseminating information about abuses that laid the basis for the extraordinary growth in the global public's interest in human rights issues.

The Vietnam War's crumbling of the cold war consensus in the United States, coupled with the Watergate scandal's weakening of executive authority, opened the door for unprecedented human rights activity by the US Congress. Spurred by dissatisfaction with the realpolitik of the Nixon and Ford administrations, many Americans saw an urgent need to return to traditional American values such as promotion of democracy and human rights. A coalition of liberal Congressmen worked to institutionalize human rights considerations in the executive branch, pressing the State Department first to create a Bureau of Human Rights in 1975 and then in 1976 to upgrade the Bureau head to an Assistant Secretary whose appointment was subject to Congressional approval. These liberals, augmented by conservatives who opposed foreign aid, also ushered in a series of unprecedented laws that mandated reductions or cut-offs in aid to governments that violated human rights. Their focus was on "integrity of the person" rights, against torture and arbitrary arrest and imprisonment. Because cut-offs in foreign aid targeted US allies, the legislation roused the ire of conservatives, who saw it as undercutting right-wing dictatorships whose support for the United States was critical to the cold war while ignoring the more serious violations of the Soviet bloc.

A second major strand in the Congressional revolt against Nixon and Kissinger's détente fixed on the Soviet Union as the major human rights violator. Henry "Scoop" Jackson, a conservative Democratic critic of détente, took the lead in attempting to use legislation to bring about changes in the Soviet domestic system, specifically to permit more emigration of Jews. Soviet Jews, subject to discrimination at home and offered a welcome in Israel, tried to leave in large numbers. When the government placed a highly restrictive emigration tax on prospective Jewish émigrés, Jackson demanded that a new US-Soviet trade agreement be linked to emigration. The 1974 Jackson-[Charles] Vanik Amendment denied trade benefits to any country that restricted emigration. It was passed over the strong objections of the Nixon administration in its waning days. US Secretary of State Henry Kissinger raged that the amendment's supporters were trying to "destroy détente" by proclaiming a "moral obligation to change Soviet policies." Even more furious, Soviet Premier Leonid Brezhnev denounced it as "tantamount to interference in our internal affairs."

These Congressional initiatives laid the ground for President Jimmy Carter's elevation of human rights to a guiding principle of US foreign policy. In his 1977 inaugural address, Carter promised to restore morality to a central place in foreign policy. Human rights,
however, was only one factor in policymaking, and other interests sometimes took precedence. Where cold war security and economic interests were marginal, as in Uganda and Paraguay, the administration was a strong critic of abuses. Where such interests were significant, the administration's willingness to subordinate human rights considerations invited charges of hypocrisy. A year before, a revolution ousted Iran's repressive ruler, Carter toasted the Shah for support of “the cause of human rights,” even as Iran's brutal secret police incarcerated and tortured political opponents. Carter criticized the Soviet bloc for cracking down on dissenters in violation of the Helsinki Accords and spoke up in defense of Sakharov, but Carter prioritized the pursuit of arms control in the form of the Strategic Arms Limitation Treaty (SALT II).

The Reagan administration made the repudiation of Carter's modest pressure on pro-US dictatorships a defining element of its foreign policy. Reagan embraced the ideas of an academic specialist, Jeane Kirkpatrick, who was among the most vehement and articulate critics of Carter's vision. Her highly influential 1979 article “Dictatorships and Double Standards” argued that the United States should support friendly “right-wing autocracies” because they, unlike communist dictatorships, “sometimes evolve into democracies.” Reagan's Assistant Secretary of State for Human Rights, Elliott Abrams, built on Kirkpatrick's vision by fashioning a philosophy that conflated human rights advocacy and anti-communism almost entirely, declaring that “we [the Reagan administration] consider anticomunism to be a human rights policy.”

Against the countervailing pressures of increasingly influential NGO activism, the Reagan administration downplayed integrity-of-the-person abuses; under the logic of the Abrams position, such abuses would always exist unless there was democratization and would increase if communism proliferated. For critics, such as the Carter administration's human rights chief, Patricia Derian, this policy corrupted human rights into little more than “a counter in a geopolitical struggle, like a hotel in a game of Monopoly.” The catalogue of abusive right-wing regimes backed by the Reagan presidency, including those in El Salvador, South Africa, the Philippines, Argentina, and Chile, gave ample basis for this critique, particularly in the first term.

Yet the Reagan administration, while partial to right-wing allies, still used “quiet diplomacy” to pursue the fate of individual cases in right-wing regimes, and Reagan was personally involved in some of these overtures. There was also a marked distinction between the Kirkpatrick doctrine as theoretically elaborated and what the administration practiced. In particular, Reagan did not share Kirkpatrick's pessimism about democratization in East Europe. In his oft-cited 1982 speech to the British Parliament, Reagan directly contradicted the notion that right-wing regimes were the only dictatorships that held the prospect of democratic reform. Reagan was thus inclined to respond favorably when a new kind of Soviet leadership emerged with Mikhail Gorbachev in 1985.
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Ultimately, it was Gorbachev’s moves, including critical steps in the realm of human rights, that made a decisive contribution to ending the cold war. Pressure from a dissident movement empowered by the Helsinki Final Act played a key role: in this sense, the international human rights movement helped catalyze the process that led to the collapse of communism.\textsuperscript{56} Dissident ideas about glasnost, human rights, and the rule of law had a strong influence on Gorbachev’s domestic reform agenda.\textsuperscript{57} The new Soviet premier initially hoped to improve relations with the West through arms control, but, as one advisor later recalled, Gorbachev eventually “became convinced that without a solution to the human rights problem the cold war could not be brought to an end, a new relationship with the United States could not be built.”\textsuperscript{58}

It was a sign of just how significant human rights had become as a factor in international relations that it ranked alongside arms control—and a sign of just how well-established ideas of universal civil and political rights had become that Gorbachev eventually repudiated virtually all of the positions Vyshinsky had so vigorously expounded in the 1940s. He released Sakharov from internal exile in 1986 and freed hundreds of other imprisoned dissidents. He publicly acknowledged that not only social and economic rights but also civil and political rights had to be actively promoted and protected. And he reversed the position so steadfastly maintained by his predecessors that the implementation and enforcement of international human rights guarantees were matters solely of domestic jurisdiction. In the end the Soviet Communist Party’s endorsement of civil and political rights proved incompatible with maintaining its hold on its East European satellites—and with maintaining communism at home.

At the end of the cold war, the West, and its liberal vision of universal human rights, seemed the undisputed victor. One observer suggested that human rights seemed to fill the vacuum once occupied by the cold war, replacing anticommunism as an organizing principle for international action in the 1990s.\textsuperscript{59} Having for decades declined meaningful action against human rights violations, the United Nations began to directly confront some abuses, though these were usually committed by politically vulnerable countries without significant allies. In the face of major human rights violations during the disintegration of Yugoslavia, the great powers in the United Nations agreed in 1993 that Chapter VII could override Article 2(7)—in other words, that the Security Council’s mandate to secure international peace, including through the protection of human rights, could override provisions about non-interference in domestic affairs.\textsuperscript{60} The UN also took steps to prosecute violators under international jurisdiction, most notably in 2002, when sixty countries established an independent body, the International Criminal Court, as the first permanent, treaty-based international court to try “perpetrators of the most serious crimes of concern to the international community,” such as genocide, crimes against humanity, and war crimes.\textsuperscript{61}

Yet the dynamics of human rights had operated largely outside the cold war, and the end of the conflict did not resolve the core tensions and debates over the term’s content and implications. Defining what should properly be seen as international human rights remained sharply contested. Resolution of the fault line in human rights between East
and West had no effect on divisions between North and South, which escalated into a bitter international debate in the early 1990s, as assertive East Asian leaders resurrected earlier Third World claims. Unlike the representatives who had assembled in Tehran in 1968, leaders such as Singapore's Lee Kuan Yew and Malaysia's Mahathir Mohamed were backed by economic success. Proclaiming a distinctive set of “Asian values,” they disputed the established set of universal human rights as a Western construction. Tensions over issues of sovereignty also remained acute. The end of the cold war rendered the US Senate only marginally less suspicious of UN challenges to US sovereignty than it had been in Bricker's time. After decades of inaction on UN human rights instruments, in 1992 the US Senate ratified the Covenant on Civil and Political Rights, but with so many qualifications—five reservations, four declarations, and five understandings—that some observers called the ratification nothing more than a cosmetic gesture. The outcome of the US war against Iraq—a war fought partly under the guise of humanitarian intervention and initially embraced by many liberal human rights advocates—suggested to critics that human rights had become a screen for brutality, militarism, and imperialism.

The victory of human rights after the cold war, then, was mostly illusory. Although international pressure over abuses had unquestionably helped some individuals, the overall effectiveness of international human rights law in changing state behavior remained in doubt. Many of the rights proclaimed in the Universal Declaration—including access to education and adequate food and housing—remained starkly out of reach for billions of the world’s poor. If, in the words of one leading activist, the discourse of human rights had become “a universal set of manners, a worldwide book of etiquette,” it was still a book more honored in the breach than in the observance.

Select Bibliography


Notes:


(11.) Charter of the United Nations, Chapter 1.


(15.) The eight abstentions included Saudi Arabia, apartheid South Africa, and members of the communist bloc.


(17.) Quoted in Morsink, *The Universal Declaration*, 22.


(23.) On the appropriation of human rights as a project of Christian conservatism in Europe, see Moyn, *Last Utopia*, 73–81.


(35.) As Samuel Moyn suggests, focusing on “visible” forms of cruelty such as torture can obscure “structural wrongs” that may also cause bodily suffering, as with hunger or overwork. Moyn, “The Genealogy of Morals,” The Nation 284 (April 16, 2007): 25-31.

(36.) On the 1970s, see the excellent accounts in Moyn, Last Utopia, 120-75, and Eckel, “Utopie der Moral,” 458-64. On East Timor, see Brad Simpson, “Denying the ‘First Right’:
Human Rights


(56.) For the argument that the Helsinki Accords played a key role in the downfall of communism, see Thomas, *The Helsinki Effect*.


(61.) “About the Court,” at <http://www.icc-cpi.int/Menus/ICC/About+the+Court/> (accessed June 8, 2012).


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