

## The Universal Declaration of Human Rights at 75: Reflections on an Anniversary

As we mark the 75th anniversary of the adoption of the Universal Declaration of Human Rights (UDHR) this year, the occasion offers us a privileged moment for reflection on the past, present and future influence of this landmark document. Such reflections first take us back to the immediate post-World War II period and the adoption, by the United Nations General Assembly on 10 December 1948, of the Declaration. The authors of this ambitiously novel document hoped that their handiwork would form a cornerstone of a 'world made anew', responding (in the terms of the preamble) to the 'barbarous acts which [had] outraged the conscience of humanity' in the preceding decades.<sup>1</sup> They achieved agreement on a broadly defined catalogue of political, civil, economic and social rights, which marked the first general declaration of individual human rights to win the assent of the (still limited) international community.

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The intervening decades have seen a wide-ranging and well-institutionalised international human rights system take shape. The Declaration now forms part of what is conventionally termed the 'International Bill of Rights', joined in 1966 by the parallel adoption of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Seven further thematic treaties, covering areas such as racial and gender-based discrimination, the rights of the child and the rights of persons with disabilities, have further been adopted

under the auspices of the United Nations. This is further embedded within the wider UN human rights framework, including the Human Rights Council (revamped, albeit very imperfectly, in 2006) and the Office of the High Commissioner for Human Rights. Beyond the core UN treaties, a panoply of further thematic international human rights instruments has been adopted, together with the significant development of various regional instruments. While studies seeking to measure the global advance of human rights have perhaps inevitably drawn mixed balance sheets, the longer-term trend



Former First Lady, Eleanor Roosevelt, holding a poster of the Universal Declaration of Human Rights, New York, 1949.

nevertheless offers significant 'evidence for hope'.<sup>2</sup> Seventy-five years on, human rights norms may be seen to exercise a significant, sometimes even decisively constraining influence on the behaviour of states. In simple terms, human rights matter in international politics.

Yet, one must also be careful to recognise the limits of this normative influence. The international human rights regime remains substantially shaped, and its effective reach is ultimately limited, by the realities of global geopolitics. During the Cold War period, competition between the West and the Soviet bloc fundamentally defined the possibilities for development of the international human rights regime. This rivalry often reduced discussion in international fora to an oversimplified, occasionally caricatural opposition between a Western emphasis on civil and political rights and a corresponding Soviet emphasis on economic and social rights (as reflected in the 1966 adoption of parallel covenants).

The advent of the post-Cold War world opened new possibilities for the international development of human rights. That which was (in naïve, if often misunderstood terms) proclaimed as the 'end of history' further implied the (apparent) triumph of a

vision of universalism in which individual human rights could be expected to enjoy pride of place. On the positive side of the ledger, this more recent period has seen a continued, expansive development of human rights. There have, for example, been moves to engage with the serious, in some cases existential human rights implications of climate change. Yet, on the other side of the balance sheet, many critics of the international human rights system have pointed to its frequent immixing with a narrowly defined conception of 'good governance', drawing its inspiration from – or at least failing meaningfully to challenge – an underlying neo-liberal socio-economic model.<sup>3</sup> If substantial human rights advances may undoubtedly be highlighted in the past three decades, the overall balance of the regime may readily be portrayed as privileging something of a 'Washington Consensus' version of human rights. There has appeared to be an unwillingness to engage centrally with the human rights issues raised by a dominant neo-liberal orthodoxy, creating the image of an international human rights regime often surprisingly disconnected from wider concerns of economic and social development.

Whatever its achievements or shortcomings, it is increasingly clear that the post-Cold War period of a liberal ascendancy has passed its high watermark.

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The unipolar moment which followed the collapse of the Soviet Union has given way to a global order increasingly characterised by both Sino-American rivalry and countervailing movements towards non-alignment. Worryingly, across both new and long-established democracies, the values of liberal democracy itself appear increasingly challenged. The key question which, thus, confronts us, as we mark 75 years of the UDHR, is that of how these changing (geo)political realities may reshape the international human rights regime and how may we best respond? The following sections first successively survey the current geopolitical situation and then turn to outlining a pragmatic agenda for the continued promotion and protection of human rights.

#### The Contemporary Geopolitics of Human Rights

As suggested above, the two most important features shaping international relations going forward are likely to be, on the one hand, an intensifying rivalry between China and the United States and, on the other hand, the growing prominence of various forms of non-alignment which reject or seek to escape from this binary logic. Both of these developments will (re)shape the contours of possible development for the international human rights regime.

While Sino-American competition broadly concerns the dynamics of global power politics, it also brings to the fore competing visions of human rights. On the US side of the equation, the more hopeful scenario is that of an American foreign policy which continues to be characterised by the paradoxes of a 'liberal hegemon'.<sup>4</sup> Architect of the current liberal international order and sometime vocal champion of human rights, the US has, in practice, often been found wanting in its conduct, failing at home and abroad to act consistently with the standards which it has itself proclaimed. This dilemma, if frequently assuming a more acute form in the case of the US because of its systemically central role, is more generally the dilemma of democratic states, not least shared by the European Union as a self-styled 'normative power'. It should, nevertheless, be highlighted that this projection of past policy into the future assumes a comparatively benign scenario, given the threat now manifestly posed to American democracy and its commitment to liberal international order by the possibility of a second Trump administration.

China has, in part, assumed the role of critic, strongly denouncing a human rights 'universalism' that it equates with a Western colonialist domination. These strong critiques are often amplified by equally sharp criticisms of individual Western states for their alleged hypocritical conduct as regards human rights, coupled with an aggressive defence of China's own

(highly problematic) human rights record. Beyond such critical parrying, China has further in the past decade assumed a more activist position, seeking to redefine the basis of the international human rights regime itself.<sup>5</sup> This alternative vision of human rights, centred on a supervening right to development (with China itself as the exemplar), has been strongly supported by a sustained strategic engagement with the UN system, as notably evidenced by the adoption of a series of Chinese-sponsored resolutions by the Human Rights Council consistent with Beijing's views. It is clear that this development-centred perspective has a wide resonance, though it is a vision ultimately lacking an effective articulation of human rights as a potential limit on state power.

The intensification of competition between China and the US has, correspondingly, prompted the development of new forms of 'non-alignment'. If the use of the term has most recently gained currency in relation to the response of the Global South to the war in Ukraine, where many countries have sought to avoid an unequivocal alignment with either side in what is seen to be a 'Western' conflict, the concept has also acquired a wider, structural sense.<sup>6</sup> Drawing inspiration from the Non-Aligned Movement of the Cold War period, countries positioning themselves in this manner seek to avoid having to make rigid binary choices between competing blocs. The idea is perhaps best captured by the idea of 'multi-alignment' that has assumed prominence in recent Indian foreign policy discourse.<sup>7</sup> This affirms a basic right to choose multiple forms of cooperation in terms which reject both historic US/Western leadership and Chinese claims to be the voice of the Global South.

At the risk of oversimplification, much of the margin for the development of new or deepened forms of international cooperation will derive from the extent to which existing multilateral institutions are able to respond to the structural demands underpinning these new movements for non-alignment. Can a version of multilateralism historically defined by – and to a significant extent designed for – Western developed nations adapt to a different, more inclusive global balance of power? This question is posed as acutely for the international human rights regime as for other forms of international organisation.

#### A Pragmatic Agenda for Human Rights

The shifting geopolitical landscape described above points to the need for an international human rights agenda that is defined in pragmatic terms, fostering open and inclusive dialogues that minimise the risk of a simple subordination to a binary power

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politics. Indeed, an emphasis on dialogue itself must figure centrally on the international human rights agenda. Here, the work of Abdullahi An-Na'im offers important insights as to how better to foster cross-cultural dialogues on human rights.<sup>8</sup> An-Na'im argues that international human rights norms can best be developed through a sequenced process of dialogues within cultural and religious traditions which may then, in turn, give rise to cross-cultural dialogues. His approach thus attempts to overcome often voiced criticisms of the predominately Western historical origins of contemporary human rights norms, arguing that such dialogues may (re)construct underlying convergent understandings on which shared norms may be based. Deriving from a strong moral claim, such an approach also corresponds to the demands of a more pluralist, 'de-centred' international order.

For such dialogues to assume a full and meaningful scope, there must also be a reaffirmation of the indivisibility of human rights. The concept of 'indivisibility' has admittedly generated much discussion and contestation, as well having often been instrumentalised in the service of different (geo)political agendas.<sup>9</sup> A basic, working understanding was nevertheless provided by the 1993 Vienna Declaration on Human Rights, affirming that 'The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis'. This demands, in particular, that there be a fair balancing and recognition of the integrally interdependent character of political and civil rights on the one hand and economic and social rights on the other. While such balancing will inevitably be difficult and to a degree contextually variable, the principle clearly precludes both a 'Washington Consensus' version of human rights ignoring socio-economic inequality and the illegitimate invocation of a legitimate right to development as a means to trample basic civil liberties.

The international institutions of human rights protection and promotion need also be reconceived in terms that reflect new geopolitical realities. A strong case emerges for the further development of what Gráinne de Búrca has in recent work termed an experimentalist approach to human rights.<sup>10</sup> This draws on an 'experimentalism' developed in the wider public policy literature, which sees policy implementation principally in terms of iterative learning processes rather than classic hierarchical enforcement. Transferred to the human rights arena, this implies a multidirectional development of human rights norms across national and international arenas. A narrowly constructed concept of the national implementation of international norms is, thus,

replaced by a process of reciprocal learning, which then further allows for the dynamic redefinition (and expansion) of human rights norms themselves.

Overall, the portrait of a pragmatic institutionalism clearly emerges, in which international institutions play a primarily facilitative role in the dialogical development of human rights norms. While such a pragmatism may appear to be the product of a modest ambition, it returns us to the origins of the UDHR itself. While the Declaration has, over the past 75 years, acquired something of an idealised character, it must be recalled that it was the product of extended political discussion and compromise.<sup>11</sup> That it saw the light of the day, and has come to be a beacon for human rights on the global landscape, is a testament to the moral vision and political skills of its authors. It is that combination of moral purpose and strategic acumen that must continue to animate the movement for human rights as we go forward. ♦

- 1 On the origins and drafting of the UDHR, see Mary Ann Glendon, *A World Made Anew: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001) and Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent* (Philadelphia: University of Pennsylvania Press, 1999).
- 2 Kathryn Sikkink, *Evidence for Hope: Making Human Rights Work in the 21st Century* (Princeton: Princeton University Press, 2017).
- 3 Samuel Moyn, *Not Enough: Human Rights in an Unequal World* (Cambridge, MA: Belknap Press of Harvard University Press, 2018).
- 4 G. John Ikenberry, *Liberal Leviathan: The Origins, Crisis and Transformation of the American World Order* (Princeton: Princeton University Press, 2011).
- 5 See Pitman B. Potter *Exporting Virtue?: China's International Human Rights Activism in the Age of Xi Jinping* (Vancouver: University of British Columbia Press, 2021) and Christopher B. Primiano, *China, the UN and Human Rights: Implications for World Politics* (Abingdon: Routledge, 2020).
- 6 Michel Duclos (ed.), *Guerre en Ukraine et nouvel ordre du monde* (Paris: Éditions de l'Observatoire/Institut Montaigne, 2023).
- 7 S. Jaishankar, *The India Way: Strategies for an Uncertain World* (Noida: HarperCollins India, 2020).
- 8 Abdullahi An-Na'im (ed.), *Human Rights in Cross-cultural Perspectives: A Quest for Consensus* (Philadelphia: University of Pennsylvania Press, 1992).
- 9 Daniel J. Whelan, *Indivisible Human Rights: A History* (Philadelphia: University of Pennsylvania Press, 2010).
- 10 Gráinne de Búrca, *Reframing Human Rights in a Turbulent Era* (Oxford: Oxford University Press, 2021).
- 11 There was further a considerable, critical intellectual firmament around the Declaration at the time of its adoption, centred on a UNESCO-sponsored project. See Mark Goodale (ed.), *Letters to the Contrary: A Curated History of the UNESCO Human Rights Survey* (Stanford: Stanford University Press, 2018).