

Appendix 151 --Toward Universal Human Rights

Source: This section comes from the notes of Monte Bullard's course on International Relations.

There have been many instances of human rights abuse in history, but it took the atrocities of World War II to jog the consciences of world leaders to insert human rights concerns into international declarations. Human rights prior to the end of WW II were vested exclusively within the nation-state. There was, for example, no mention of human rights in the covenants of the League of Nations that emerged at the end of World War I.

But what are universal human rights? The US Department of State Report on Human Rights Practices in Countries Receiving US Aid defines three categories of human rights that are useful:

1. The right to be free from governmental violations of the integrity of the person -- violations such as torture, cruel, inhuman or degrading treatment or punishment; arbitrary arrest or imprisonment; denial of fair public trial; and invasion of the home.
2. The right to fulfillment of vital needs such as food, shelter, health care and education.
3. The right to enjoy civil and political liberties, including freedom of speech, of press, of thought, of assembly, and of religion, the right to participate in government and the right to travel freely within and outside one's own country.

The UN Charter, in contrast to the League of Nations Covenants, mentions human rights seven times. But just mentioning human rights in a relatively utopian document was not enough. It was necessary to define them in more detail. Just which rights would different cultural or political persuasions agree upon as being universal? And what happens when individual rights come into conflict with a nation-state's right or a larger group's rights?

A classic conflict is when a nation-state goes to war. Do individual rights or freedoms mean an individual doesn't have to participate? Or does a state have the right to draft the individual? Another way this is explained is in the dichotomy between individual interest and the common good. China expresses human rights concerns in terms of group interests or collective interests not individual interests and therein is the central contradiction.

The UN has been the principal forum for trying to identify and define which political or civil rights all agree are universal and inalienable. The UN will also be a key organization in defining the limits of enforcing universal.

The major responsibility for developing universal concepts of international human rights was assigned to the Economic and Social Council of the General Assembly and in May of 1946 the first Commission on Human Rights met and set their goals:

1. An International Bill of Rights
2. International conventions or declarations on civil liberties, the status of women, freedom of information, and similar matters
3. The protection of minorities
4. The prevention of discrimination on grounds of race, sex, language or religion
5. Any other matter of human rights not covered by the others

After extended discussion and negotiation a Universal Declaration of Human Rights was produced and adopted by the General Assembly on December 10, 1948. The People's Republic of China did not become a member of the UN until November 14, 1971, so the universality of the document has been open to question. Taiwan, in that early period, represented China.

Four international agreements or treaties on human rights have been developed which gives signatory states the "opportunity to give the force of international law to the rights enumerated in the Universal Declaration of Human Rights. The four are:

1. International Covenant on Civil and Political Rights
2. International Covenant on Economic, Social and Cultural Rights
3. Optional Protocol attached to this Covenant (Individual petitions to UN)
4. Second Optional Protocol to the International Covenant on Civil and Political Rights (Abolish Death Penalty)

These four agreements, which codify and explain the rights outlined in the Universal Declaration, are sometimes called an "International Bill of Human Rights." They probably represent the best expression of the goals of internationalists beyond just wishing for a peaceful world.

The US has signed and ratified the two central international covenants. China has signed both, but has not ratified the International Covenant on Civil and Political Rights.¹ Neither China nor the US has signed the two optional protocols.

The only documents to focus on individual rights are the two optional protocols. The first provides individuals with a means to petition or communicate a human rights abuse directly to the UN. The second seeks to abolish the death penalty. Because they focus on individual rights it might be expected that China would not sign them. But the US also finds weaknesses and has not become a party to either protocol.

While all four documents address the notion of governmental human rights abuse, they focus on general behavior over categories or "groups" of citizens or the relationship between the government and the civil society. Even a benevolent dictatorship could satisfy the requirements of the documents so there is no inherent pressure to "democratize." In other words, human rights cannot be equated to democracy in the universal documents.

¹ China signed the International Covenant on Economic, Social and Cultural Rights on October 27, 1997 and ratified it on March 27, 2001. It signed the International Covenant on Civil and Political Rights on October 5, 1998, but has not yet ratified it.

The main question beyond which rights are considered inalienable is how flagrant must an abuse of those rights be to merit world or international condemnation? There are a whole series of specific human rights, which have been considered most important in universal terms, and they have invoked specific conventions or declarations:

1. Dec 48 - Convention on the Prevention and Punishment of the Crime of Genocide
2. Apr 57 - Supplementary Convention on the Abolition of Slavery (Supplementary to the 1926 International Slavery Convention)
3. 1952 - Convention on the Political Rights of Women. (Arabs didn't become Parties to the Convention)(You sign up for it or you don't)
4. 1969 - International Convention on the Elimination of All Forms of Racial Discrimination.
5. There are others that cover the rights of children, migrant workers, refugees, stateless persons, disabled persons, etc.