Negotiating universality – an introduction

On June 14, 1993, the Secretary-General of the United Nations Boutros Boutros-Ghali delivered the opening address to the World Conference on Human Rights held in Vienna. The world had undergone massive political transformations in the preceding four years and the Vienna conference's purpose was to lay new foundations for international human rights protection in the post–Cold War era. Since 1945, the evolution of international human rights had been closely linked to the United Nations. The Cold War and North–South debates had for almost fifty years determined the uneasy existence of human rights at the United Nations.

Boutros-Ghali's speech was a subtle reflection on these historical realities and on the nature of human rights as he explained that:

Human rights should be viewed not only as the absolute yardstick which they are, but also as a synthesis resulting from a long historical process. As an absolute yardstick, human rights constitute the common language of humanity. Adopting this language allows all peoples to understand others and to be the authors of their own history. Human rights, by definition, are the ultimate norm of all politics.

As an historical synthesis, human rights are in their essence, in constant movement. By that I mean that human rights have a dual nature. They should express absolute, timeless injunctions, yet simultaneously reflect a moment in the development of history. Human rights are both absolute and historically defined.[1]

This was a paradoxical but honest assessment of a complex phenomenon in international politics, diplomacy and law – a phenomenon that with

[1] A/CONF.157/22: Address by the Secretary-General of the United Nations at the Opening of the World Conference on Human Rights, June 14, 1993, p. 3.

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the 1945 UN Charter had become a purpose and a vision to guide the work of the United Nations. Boutros-Ghali gave an open invitation to the historian to become engaged in understanding the role of human rights in twentieth-century international politics. Human rights were after all both absolute and timeless as well as historically defined and in constant movement.

In recent years, human rights have become a rapidly expanding field of historical research. Exciting new studies and interpretations have been put forward. While I gratefully acknowledge the inspiration drawn from these works, my research has guided me in a very different direction than recent historiography. Jamaica and Liberia will therefore emerge in this work as influential normative powers in twentieth-century politics, and I present the duality of race and religion as the driving forces in the breakthrough of international human rights law and politics. The 1960s will, crucially and again diverging from the increasingly accepted narrative, feature as the central period in this longer Cold War story combined with a new emphasis on the significance of decolonization. What follows is the story of these until-now, little-acknowledged players in a forgotten decade who played such a decisive role in shaping our contemporary world. This calls for elaboration.

Decolonization made a crack in the world running from South to North and East to West. From this tectonic shift, the issue of human rights emerged and over time achieved global prominence. This transformation was not just a result of structural changes in the international system of states: It was also a story of agency where the lead proponents were, in fact, a group of states from the Global South that explored and used this global transformation to reform the norms of international society and create a platform for human rights in international politics. It took time before this change became visible. The consequence of the time lag was that the source of this tectonic shift remained hidden and clouded our understanding of the emergence of human rights. The breakthrough and trajectory of international human rights has been misdated and misunderstood.

The decolonization process, described as the largest transfer of sovereign power in the history of humankind,[2] deserves greater attention

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[2] Jeffrey Herbst (2004), "Let Them Fail: State Failure in Theory and Practice," *When States Fail: Causes and Consequences*. Edited by Robert Rotberg. Princeton, NJ, p. 312; See also James Sheehan (2008), *Where Have All the Soldiers Gone? The Transformation of Modern Europe*. New York, p. 167.

not just as an essential part of the twentieth-century historical experience
but also for the emergence of human rights. It represented the transforma-
tion from a world of empires to the world of quasi-functional sovereign
states we live in today.[3] Decolonization transformed the normative back-
drop upon which human rights were projected on the world stage from
the 1940s and the decades that followed. In the hierarchical world of
empire, human rights had only a limited opportunity to shape global
politics. The notion of the universality of human rights was anathema to
this world system. After decolonization, human rights were negotiated
in a more horizontal system of states, at least in formal terms, and the
notion of universality now operated in a world where some of its most
powerful barriers had subsided. "Decolonization was a precondition that
'Europe' might again be associated with and worthy of an egalitarian
universalism" as Jan Werner-Müller rightfully observes in his study of
twentieth-century European political thought.[4]

Sovereignty still dominated; it actually expanded with decolonization
and remained a major barrier, but a structural change of the world system
had taken place and the transformation process was in itself significant for
human rights. The European imperial powers, among the most powerful
opponents of universality in the first two decades after the Second World
War, went through a political process that reformed their views on human
rights as they were increasingly liberated from their own empire in the
middle decades of the twentieth century. It transformed their approaches
to foreign policy and international human rights diplomacy. This was
not merely a journey of self-discovery. They were guided toward these
new positions. At the same time, and in a not unrelated process, the
United States confronted its own long-lasting and foundational tradi-
tion of racism by disbanding the Jim Crow system of formalized racial

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[3] See Susan Pedersen's work on the League of Nations: Susan Pedersen (2006), "The
Meaning of the Mandates System: An Argument," *Geschichte und Gesellschaft*, vol.
32, pp. 560–582; Susan Pedersen (2015), *The Guardians. The League of Nations and
the Crisis of Empire*. Oxford, p. 13. See also Frederick Cooper (2005), *Colonialism in
Question: Theory, Knowledge, History*. Berkeley, CA, p. 231; Frederick Cooper (2014),
*Citizenship between Empire and Nation. Remaking France and French Africa, 1945-
1960*. Princeton, NJ; A. G. Hopkins (2008), "Rethinking Decolonization," *Past and
Present*, vol. 200, no. 1, pp. 241–247; Matthew Connelly (2000), "Taking off the Cold
War Lens: Visions of North-South Conflict during the Algerian War for Independence,"
American Historical Review, vol. 105, no. 3, pp. 739–769; Christian Reus-Smit (2013),
Individual Rights and the Making of the International System, Cambridge, p. 161.
[4] Jan-Werner Müller (2010), *Contesting Democracy. Political Ideas in Twentieth-Century
Europe*. New Haven, CT, p. 157.

segregation in the South – a century after slavery had been abolished with
the Civil War. The Communist regimes led by the Soviet Union believed
that the end of colonialism would deliver ideological gains, which it ini-
tially did. They would, however, find themselves unable to reform their
societies as the norms of international society evolved over time. None
of the abovementioned states were at the vanguard of the rise of human
rights in the 1960s.

"The geography of international law" had changed, one diplomatic
observer noted in a significant 1962 UN debate on the future of law and
international relations.[5] The 1960s were a decade where the colonial, the
anticolonial and the postcolonial met and overlapped. A large number
of new subjects of international law had emerged with the creation of
so many new states. Cold War ideological battles were extended to the
sphere of international law. A new approach to international relations
was one expression of the tectonic shift. Among the matter that emerged
from this shift was universality.

The new focus on the universality of human rights was supported
by two elements: an increased emphasis on universality as a principle
of international law and universality as a founding principle for the
type of international organization that the United Nations embodied. In
these processes, universality was promoted and contested, codified and
rejected – but above all it was negotiated. This is worthy of our attention.
Actually, it may be said that with the normative breakthrough for human
rights in the 1960s, the total of the United Nations as an international
organization during this decade proved to be more than the sum of its
parts. The lived experience of human rights in the member states with the
widespread violations during this era – and after – would support this
claim.

The hypothesis about this important connection between decoloniza-
tion and human rights provides a challenge to some of the existing litera-
ture. From within postcolonial studies, human rights have been strongly
criticized, frequently linking human rights with Western essentialism and
neocolonialist agendas, but it may be that this critique has only been able
to sustain itself through its amnesia about the postcolonial moment, that
is, its own historical foundations. If a number of key countries from the
Global South were the driving force behind the breakthrough of universal
human rights, how Western, then, is the concept of human rights? There

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[5] Mr. Lannung (Denmark), UN General Assembly, 17th session, 756th meeting, November
9, 1962, p. 111.

remain important questions to be asked about how international human rights emerged.

The emphasis on the link between human rights and decolonization also calls for a word of caution. Decolonization was a multifaceted and complex process, where its aspirations soon encountered harsh political realities on a national, regional and global scale. What came to pass was that "amidst one of the great political openings of the twentieth century, the closures of a particular decolonization were becoming visible."[6] The exercise of power soon manifested itself forcefully and repressively. My intention has not been to overstate the nexus between human rights and decolonization but that the nexus exists in a more refined way than previously understood, and that it is important.

This becomes evident when recognizing that several developments in late 1962 represented a crucial turning point that led to the breakthrough for human rights law and politics. At this juncture, and in the aftermath of the Cuban Missile Crisis in October, three major developments took place at the United Nations that set human rights on a new political trajectory.

The first development was that the UN human rights project that had been faltering for a decade and a half was essentially reborn in late 1962 around the issues of race and religion. This brought a whole new dynamic to the field as it reflected global political developments central to this period and challenged and transformed East–West positions on international human rights. This dynamic secured the breakthrough for human rights to become international law.

The second development was that newly independent Jamaica joined the United Nations at the 1962 UN General Assembly Session and immediately initiated a process that provided a new and longer-term framework for human rights to evolve and expand. In the process, Jamaica became the major broker of progress on human rights in the 1960s, facilitating important innovations in human rights politics – at the United Nations and beyond – leaving a long-lasting and profound legacy.

The third development was that human rights became an integrated component of broader international norm-making efforts. In 1962, the UN initiated a process to elaborate "the principles of international law concerning friendly relations and co-operation among states based on the UN Charter." It was part of a push from Communist states to promote Nikita Khrushchev's campaign for peaceful coexistence and have this

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[6] Frederick Cooper (2002), *Africa Since 1940. The Past of the Present.* Cambridge, p. 71.

notion reflected in international law. The outcome of this UN process, which lasted from 1962 to 1970, was the foundational document for the Helsinki Final Act. In subtle but important ways, it reflected human rights principles that would facilitate the inclusion of human rights in the 1975 Helsinki Final Act. If the Helsinki Final Act was instrumental during the late 1970s in elevating human rights in international relations and in inspiring activism, the backdrop for this development lies in the 1960s in a context rather different than the Conference on Security and Cooperation in Europe (CSCE) and European détente.

Yet despite this, the 1960s has remained almost a forgotten decade in human rights historiography.[7] The primary focus has been on the 1940s and the early rise of human rights. More recently, the 1970s has emerged as the other period at the center of attention for human rights history.[8] In two recent major international anthologies on postwar human rights, there is only one out of thirty articles that focuses on the 1960s.[9]

There are obvious reasons for the focus on the 1940s and the 1970s. The 1940s saw the development of the milestone document that shaped the field, namely the 1948 Universal Declaration of Human Rights.[10] The 1970s saw the global embrace of human rights by numerous international and national NGOs, forging a number of social movements. In response to the alleged human rights breakthrough in the 1970s, it is

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[7] One notable exception is Roland Burke (2010), *Decolonization and the Evolution of International Human Rights*. Philadelphia, PA.

[8] See Samuel Moyn (2010), *The Last Utopia. Human Rights in History*. Cambridge, MA; Michael Cotey Morgan (2010), "The Seventies and the Rebirth of Human Rights," *The Shock of the Global. The 1970s in Perspective*. Edited by Niall Ferguson *et al.* Cambridge, MA, pp. 237–250; Akira Iriye, Petra Goedde and William I. Hitchcock (eds.) (2012), *The Human Rights Revolution: An International History*. Oxford; Jan Eckel and Samuel Moyn (eds.) (2012), *Moral für die Welt? Menschenrechtspolitik in den 1970er Jahren*. Freiburg; Barbara Keys (2014), *Reclaiming American Virtue. The Human Rights Revolution of the 1970s*. Cambridge, MA.

[9] See Stefan-Ludwig Hoffmann (ed.) (2011), *Human Rights in the 20th Century*. Cambridge; and Iriye, Goedde and Hitchcock, *The Human Rights Revolution*. The article is by Barbara Keys on Greece and antitorture politics in the late 1960s and early 1970s (Barbara Keys (2012), "Anti-Torture Politics: Amnesty International, the Greek Junta, and the Origin of the Human Rights 'Boom' in the United States,"). The claim is made in a couple of other instances that an article covers the 1960s but the actual text and footnotes reveal a different story. The editors of *The Human Rights Revolution* write that human rights "became a major concern in international politics in the 1960s and 1970s," but they have done little to address this conclusion about the 1960s in the edited volume. See "Introduction," p. 5.

[10] For a recent take on this history, see Christopher N. J. Roberts (2015), *The Contentious History of the International Bill of Human Rights*. Cambridge.

important to emphasize that while it was significant that international
NGOs advocated for and media disseminated news features on human
rights worldwide, it was equally significant when states negotiated – in
this case, several binding human rights treaties – and concluded them. On
the latter point, there was a definite breakthrough in the 1960s.

Until the early 1960s, the Universal Declaration of Human Rights car-
ried limited weight in international politics. There was, however, one
area in which the Universal Declaration played a concrete role. It had
become an important source of inspiration in the drafting of constitu-
tions in newly emerging states. By the early 1960s, the Declaration, for
example, had been applied in the drafting of constitutions in more than
twenty African countries.[11] By 1962, as the UN human rights project
still floundered, there was a lesson to be learned from this development:
Human rights were coming in from the South.

The breakthrough occurred rapidly. In July 1963, a legal advisor in the
U.S. State Department wrote about the Commission on Human Rights
and its "prolonged effort expended on human rights covenants which
may never be completed and which, if completed, may never be widely
ratified as treaties."[12] Three years later, at the end of 1966, three major
human rights treaties had been completed, with ratifications already hav-
ing occurred for the International Convention on Elimination of All
Forms of Racial Discrimination adopted in December 1965. It was this
Convention and the race issue itself that enabled the completion in 1966
of the two Covenants on civil and political rights and on economic, social
and cultural rights that by then had been underway for eighteen years.

"Treaties reflect politics," writes Beth Simmons in her influential book
Mobilizing for Human Rights.[13] It is therefore relevant to try and under-
stand the nature of these political developments. The story seen from the
perspective of 1962's influence begets quite a different historical context,
with a different set of actors and a different trajectory and causalities
regarding the human rights breakthrough than those stories focusing on

[11] Egon Schwelb (1963), *Human Rights and the International Community*. Chicago, IL,
p. 51; See also Charles O. H. Parkinson (2008), *Bills of Rights and Decolonization. The
Emergence of Domestic Human Rights Instruments in Britain's Overseas Territories*.
Oxford.

[12] Document 258, "Memorandum From the Deputy Legal Advisor of the Department of
State (Meeker) to the Assistant Secretary of State for International Organization Affairs
(Cleveland)," July 16, 1963, *Foreign Relations of the United States, 1961–1963, Vol.
25*, p. 573.

[13] Beth Simmons (2009), *Mobilizing for Human Rights: International Law in Domestic
Politics*. Cambridge, p. 12.

the 1940s and the 1970s. It also connects these three periods in a way that is unseen in existing human rights research. The book thereby addresses significant gaps in the research literature and in our knowledge of how human rights evolved in the post-1945 era.

The existing human rights literature is extremely comprehensive and covers a wide range of disciplines. It is impossible here to do justice to the research field. Since 2010, the discipline of history has been one of the most vibrant contributors to human rights scholarship, with an outburst of new research. This comes on the back of previous work by scholars such as Paul Gordon Lauren, Johannes Morsink and others published during the 1980s and 1990s.[14] During the 2000s, but before the recent boom, important contributions were made by scholars including A. W. Brian Simpson, Mary Ann Glendon, Lynn Hunt and Jay Winter.[15] Susan Waltz placed particular emphasis on the role of small states, especially in the drafting of the 1948 Universal Declaration of Human Rights.[16] Their contributions stand out as important independent works and offer different perspectives to the strong focus on the 1970s in the recent historiography since 2010.[17] One of the limitations of this literature is a

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[14] See, for example, Paul Gordon Lauren (1983), "First Principles of Racial Equality: History and the Politics and Diplomacy of Human Rights Provisions in the UN Charter," *Human Rights Quarterly*, vol. 5, no. 1, pp. 1–26; Paul Gordon Lauren (1998), *The Evolution of International Human Rights: Visions Seen*. Philadelphia, PA; Johannes Morsink (1999), *The Universal Declaration of Human Rights*: Origins, Drafting and Intent. Philadelphia, PA; Gudmundur Alfredsson and Asbjørn Eide (1999), *The Universal Declaration of Human Rights: A Common Standard of Achievement*. The Hague.

[15] A. W. Brian Simpson (2001), *Human Rights and the End of Empire. Britain and the Genesis of the European Convention*. Oxford; Mary Ann Glendon (2001), *A World Made New. Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York; Lynn Hunt (2008), *Inventing Human Rights. A History*. New York; Jay Winter (2008), *Dreams of Peace and Freedom: Utopian Moments in the 20th Century*. New Haven, CT. See also Micheline Ishay (2004), *The History of Human Rights. From Ancient Times to the Globalization Era*. Berkeley, CA.

[16] See Susan Waltz (2001), "Universalizing Human Rights: The Role of Small States in the Construction of the Universal Declaration of Human Rights," *Human Rights Quarterly*, vol. 23, no. 1, pp. 44–72; Susan Waltz (2002), "Reclaiming and Rebuilding the History of the Universal Declaration of Human Rights," *Third World Quarterly*, vol. 23, no. 3, pp. 437–448; Susan Waltz (2004), "Universal Human Rights: The Contribution of Muslim States," *Human Rights Quarterly*, vol. 26, no. 4, pp. 799–844. I believe there is better evidence for Waltz's goal of placing due emphasis on the contributions of non-Western states to the evolution of human rights in the diplomatic processes studied in the present book.

[17] There are several excellent historiographical essays about human rights history. See, for example, Reza Afshari (2007), "On Historiography of Human Rights Reflections on Paul Gordon Lauren's *The Evolution of International Human Rights: Visions Seen*," *Human Rights Quarterly*, vol. 29, no. 1, pp. 1–67; Stefan-Ludwig Hoffman (2011),

limited awareness of the 1960s' human rights foundations on which the 1970s' developments rest.

Roland Burke's excellent 2010 book *Decolonization and the Evolution of International Human Rights* is one of very few books that address the 1960s in some detail. It provides a comprehensive and insightful overview of Third World diplomacy from the 1955 Bandung Conference to the 1968 World Conference for Human Rights held in Tehran. The book is particularly strong in addressing the nuances of the debates at the United Nations as well as the later "rise of cultural relativism" as a challenge to human rights.[18] It does not, however, capture important catalytic factors such as the strategic impact of the race–religion equation and the nuances of the five-year Jamaica-led preparation process for the 1968 human rights year and what this also says about the role of the Global South. Daniel Whelan's book *Indivisible Human Rights*, also from 2010, captures similar themes, providing a rich account of the drafting of the Human Rights Covenants at the United Nations and offering a long-term perspective from 1945 to 2009 on the development of a key conceptual and political dimension of international human rights thinking. However, its thematic focus also carries a limitation: The 1960s receive limited treatment despite the fact that 1968 is presented as a turning point in how the understanding of the indivisibility of human rights evolved.[19]

The UN Intellectual History Project produced ten volumes from 2004 to 2009 on a whole range of topics that have been key in the UN's work since 1945, including a book on the history of *Human Rights at the UN*. It is a rich, comprehensive and informative work that unfortunately manages to largely ignore the 1960s – apart from twelve pages on the Convention on Elimination of All Forms of Racial Discrimination[20] – thereby

"Introduction: Genealogies of Human Rights," *Human Rights in the 20th Century*. Edited by Stefan-Ludwig Hoffman. Cambridge, pp. 1–26; Philip Alston (2013), "Does the Past Matter: On the Origins of Human Rights," *Harvard Law Review*, vol. 126, no. 7, pp. 2043–2081. See also Abigail Green (2014), "Humanitarianism in Nineteenth-Century Context: Religious, Gendered, National," *The Historical Journal*, vol. 57, no. 4, pp. 1157–1175. For an excellent piece on historiography focusing on the United Nations see Sunil Amrith and Glenda Sluga (2008), "New Histories of the United Nations," *Journal of World History*, vol. 19, no. 3, pp. 251–274.

[18] Burke (2010), *Decolonization and the Evolution of International Human Rights*, p. 113.
[19] Daniel J. Whelan (2010), *Indivisible Human Rights. A History*. Philadelphia, PA.
[20] Roger Normand and Sarah Zaidi (2008), *Human Rights at the UN: The Political History of Universal Justice*. Bloomington, IN, pp. 260–272. For a separate work that constitutes a broad UN history, see Mark Mazower (2012), *Governing the World: The History of an Idea, 1815 to the Present*. New York.

providing a rather limited view of a critical and transformative period for
the UN and for the subject matter of the book. More recently, Jan Eckel's
Die Ambivalenz des Guten, from 2014, which focuses on human rights
in international politics since the 1940s, has provided a wide-ranging and
detailed study. In a 900-page book on this topic, the 1960s can hardly
be avoided. The book does cover issues such as decolonization, the case
against the Greek military Junta in the European regional human rights
system from 1967, the evolution of Amnesty International and impor-
tantly the debates about the creation of an inter-American human rights
system during the 1960s; but despite giving attention to several relevant
developments during the decade, Eckel still argues that the UN human
rights agenda focused almost exclusively on condemning colonialism and
on racial discrimination.[21] I hope to show in this book why this percep-
tion deserves to be nuanced.

In his 2013 book *Individual Rights and the Making of the International
System*, Christian Reus-Smit argued that there was a discrepancy between
studies of decolonization and human rights. Decolonization studies sel-
dom mentions the politics of human rights and "histories of the interna-
tional human rights regime ignore, to all intents and purposes, the politics
of decolonization."[22] Reus-Smit's provides an accurate analysis of the
reasons for this, namely a deeply ingrained but problematic assumption
"that if decolonization was about rights, it was about collective rights not
individual rights; and that the international codification of human rights
was a Western project."[23] The limited historiography that has grappled
with the nexus between human rights and decolonization has tended to
focus on the right to self-determination, rejecting the idea that human
rights were central to the anticolonial movements.[24] Self-determination

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[21] The quote in German reads: "so stand die Menschenrechtsagenda der Vereinten Natio-
nen in den sechziger Jahren praktisch ausschliesslich im Zeichen der Verurteilung von
Kolonialismus und Rassendiskriminierung," see Jan Eckel (2014), *Die Ambivalenz des
Guten. Menschenrechte in der internationalen Politik seit den 1940ern*. Göttingen,
p. 263.

[22] Reus-Smit (2013), *Individual Rights and the Making of the International System*,
p. 152.

[23] Ibid., p. 152. It is a little paradoxical that Reus-Smit builds his analysis mainly through
the traditional focus on the right to self-determination – which in his view universalized
sovereignty – since the scope of Global South human rights engagement went well
beyond this issue and that the broader focus more significantly substantiates the point
about the nexus between decolonization and human rights that Reus-Smit argues.

[24] See Moyn (2010), *The Last Utopia*, pp. 84–119; Samuel Moyn (2012), "Imperialism,
Self-Determination, and the Rise of Human Rights," *The Human Rights Revolution*.
Edited by Akira Iriye, Petra Goedde and William I. Hitchcock, Oxford, pp. 158–178;