HUMAN RIGHTS QUARTERLY

"All Human Rights for All": The United Nations and Human Rights in the Post-Cold War Era

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ABSTRACT

This article analyzes how the post-Cold War era has led to a transformation of the United Nations (UN) human rights ideology. The first part examines the United Nations discourse, and explains how it has been influenced by the objective of making human rights more universal and indivisible. The second section focuses on a set of global policies that illustrate how the UN has sought to put in practice the principle of "all human rights for all." Although the impact of UN ideology remains limited, this study demonstrates that the world body has shown growing determination in introducing human rights considerations into global politics.

I. INTRODUCTION

The fifteen monographs published as part of the United Nations Intellectual History Project (UNIHP) have provided convincing evidence that "ideas and concepts . . . are arguably the most important legacy of the United Nations."[1] Building on the innovative work of the UNIHP, this article seeks

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1. Richard Jolly, Louis Emmerij & Thomas G. Weiss, UN Ideas that Changed the World 39 (2009).

to enrich the ongoing discussion on the role of ideas in UN activities. The analysis here focuses on human rights, a subject which is increasingly seen as constituting "a routine part of international relations."[2]

The specific contribution that this study proposes to make is twofold. First, on the empirical level, it examines the evolution of UN ideas since the end of the Cold War, a theme which until now has remained under-researched. Second, on the theoretical level, it uses the notions of ideology and global public policy to further the debate initiated by the UNIHP contributors.[3] More specifically, the article argues that over the past two decades the United Nations has developed an ideology of human rights centered on the overarching objective of promoting "all human rights for all." Encapsulating principles of indivisibility and universality, this objective is the driving normative force behind the global policies currently advocated by the United Nations in the area of human rights.

The notion of "all human rights for all," which was popularized in the 1990s, is clearly in line with the UN ideology that took shape in the 1940s through the Universal Declaration of Human Rights (UDHR). Nevertheless, as will be seen below, the UN approach to human rights has undergone significant changes over the past twenty years. Traditionally regarded as a secondary concern of global governance, human rights have gradually emerged as a crosscutting issue constituting a cornerstone of UN activity, alongside security and development. Throughout this evolution, no other norm has been more important in guiding the discourse and practices of the organization than the idea that the United Nations mission is to promote "all human rights for all."

II. UN IDEAS: SOME CONCEPTUAL ISSUES

To account for the new significance that human rights hold in the functioning of the United Nations requires a good grasp of how the organization's ideas are structured and how they bear on practice. To this end, a review of the literature on ideology and global public policy offers a number of insights and rich avenues of analysis.

Notwithstanding certain pioneering studies, the notion of ideology has never been systematically used in the analysis of international relations and institutions.[4] This is surprising in two ways. First, the concept of ideology is

2. David P. Forsythe, Human Rights in International Relations 317 (3rd ed., 2012). *See also* Jack Donnelly, Universal Human Rights in Theory and Practice (3rd ed., 2013).
3. *See* Jean-Philippe Thérien, *Human Security: The Making of a UN Ideology*, 26 Global Soc'y 191 (2012); Jean-Philippe Thérien, *The United Nations and Human Development: From Ideology to Global Policies*, 3 Global Pol'y 1 (2012).
4. *See* Robert W. Cox, *Ideologies and the New International Economic Order: Reflections on Some Recent Literature*, 33 Int'l Org. 257 (1979); Craig N. Murphy, *What the*

widespread in political science, most notably in the fields of political theory and comparative politics. Contrary to the "end of ideology" thesis, many political scientists agree that ideologies have always been, and continue to be, at the very heart of political life.[5] Second, it is remarkable that the development of constructivism—a theory centered on the role of ideas—has not led international scholars to pay more attention to ideologies. Granted, the discipline of international relations has partly corrected this deficiency through the development of adjacent concepts such as knowledge and culture.[6] But as this analysis demonstrates, the notion of ideology can bring a distinctive added value to the study of international processes.

For this added value to be realized, two conditions need to be fulfilled. The first involves adopting a neutral rather than a polemical version of the concept of ideology. In current political debates it is commonly assumed that ideology refers to a distorted view of reality. Politicians rebuke their adversaries for using "ideological" rhetoric. It should be recalled, however, that social science proposes a less pejorative, more heuristic conception of ideology. Manfred Steger, for example, has defined ideologies as "comprehensive belief systems composed of patterned ideas and claims to truth."[7] Similarly, John Schwarzmantel has asserted that ideologies provide "overall views of how society should be organised."[8] Consequently, Schwarzmantel has pointed out, "it is hard to see how [ideologies] could be seen as dispensable."[9]

To benefit from the added value of the concept of ideology in the study of world politics, one also has to acknowledge that every political institution active in the international arena has an ideology. In other words, international organizations such as the United Nations, national governments, and transnational actors all have a general view of how the world should be organized. While it is true that most political ideologies emerged within the framework of the nation-state, their values and norms have been consistently

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Third World Wants: An Interpretation of the Development and Meaning of the New International Economic Order Ideology, 27 Int'l Stud. Q. 55 (1983); Mark L. Haas, The Ideological Origins of Great Power Politics, 1789–1989 (2005); Manfred B. Steger, The Rise of the Global Imaginary: Political Ideologies from the French Revolution to the Global War on Terror (2008); Manfred B. Steger, Globalisms: The Great Ideological Struggle of the Twenty-first Century (3rd ed., 2009).

5. *See* Michael Freeden, Ideologies and Political Theory: A Conceptual Approach (1996); John Schwarzmantel, Ideology and Politics 25–27 (2008); The Oxford Handbook of Political Ideologies (Michael Freeden, Lyman Tower Sargent, & Marc Stears eds., 2013).
6. *See* The Culture of National Security: Norms and Identity in World Politics (Peter Katzenstein ed., 1996); Alexander Wendt, Social Theory of International Politics (1999); Michael N. Barnett & Martha Finnemore, Rules for the World: International Organizations in Global Politics (2004).
7. Steger, The Rise of the Global Imaginary, *supra* note 4, at 5.
8. Schwarzmantel, *supra* note 5, at 27.
9. *Id.* at 26.

applied to international debates. Inasmuch as "the new age of ideology is global," that trend appears to be stronger than ever.[10]

The notion of ideology has two significant advantages for the study of international institutions such as the United Nations. First, in comparison with the notion of idea, the concept of ideology is based on a more holistic approach to human thought.[11] It draws attention to the fact that ideas are hardly free floating entities but, instead, are formulated and develop within a given intellectual context. For its full meaning to be retrieved, an idea must be situated within its environment, that is, in relation to the other ideas with which it combines to form a system of ideas. As such, the notion of ideology allows one to better grasp how ideas are constructed and ordered. Second, the notion of ideology also draws attention to the fact that political ideas are geared toward practice. "Linking belief and practice," writes Steger, "ideologies encourage people to act while simultaneously constraining their actions."[12] When international institutions defend an ideology in their public discourse, their motives are neither purely intellectual nor disinterested. Rather, their goal is to reshape the real world in accordance with their beliefs. Arguably, this is as true of the United Nations as it is of other political actors.

The literature on global public policy opens a useful complementary path for studying the ideas of international institutions. This literature is of interest primarily because it provides a conceptual framework to clarify the above noted practical dimension of UN ideology. Indeed, it is through global policies that the UN tries to put its ideas into effect, whether in the field of human rights or elsewhere. Combining the notions of ideology and global policy seems to be especially justified because over that past few years public policy analysts have emphasized the role of ideational and normative factors in policy making.[13] Above all, their analytical insight points to the need to go beyond the widespread tendency to simply set the UN "rhetoric" (i.e. its ideology) against "reality" (i.e. the policies it supports).[14]

As yet, the field of global public policy has not been extensively explored and the subject remains rather peripheral to the traditional concerns of public policy specialists. Still, as evidenced by the recent creation of the scholarly journal *Global Policy*, more and more observers consider that the collective

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10. Steven Weber & Bruce W. Jentleson, The End of Arrogance: America in the Global Competition of Ideas 19 (2010).
11. *See* Freeden, *supra* note 5, at 48.
12. Steger, The Rise of the Global Imaginary, *supra* note 4, at 5.
13. *See* The Political Power of Economic Ideas: Keynesianism across Nations (Peter A. Hall ed., 1989); Robert E. Goodin, Martin Rein & Michael Moran, *The Public and its Policies, in* The Oxford Handbook of Public Policy 5–6 (Michael Moran, Martin Rein, & Robert E. Goodin eds., 2006); Ideas and Politics in Social Science Research (Daniel Béland & Robert H. Cox eds., 2011); Mark Blyth, Austerity: The History of A Dangerous Idea (2013).
14. Jolly, Emmerij & Weiss, *supra* note 1, at 252.

action problems associated with "the intensification of globalisation" have forced a restructuring of political power.[15] The new dynamics have engendered the need for global policy making, a form of policy making that is both multi-agential and multi-scalar. Global policy making in no way implies the advent of a global government, but it highlights the fact that political decision makers and territories worldwide are more and more interconnected.

The concept of global public policy arose in response to the proliferation of new common policy problems stemming from a greater interdependence among states. In face of these problems, Wolfgang Reinicke explained in the late 1990s, governments must rely more and more on cooperation to achieve their policy objectives and maintain their sovereignty.[16] This approach to global policy was later refined with the recognition of the need to move from a "state-centric" to a "polycentric" vision of governance.[17] Such a rethink seemed appropriate for two reasons. First, though states continue to be the main policy makers in the international system, the role of non-state actors in the development of public policies is clearly on the rise. International institutions, nongovernmental organizations (NGOs), and business are increasingly involved in shaping collective decisions in a number of issue areas. Second, the reconfiguration of political agency has resulted in overlapping processes of policy making, which take place simultaneously at the global, regional, national, and local levels. As Jan Aart Scholte put it, "in polycentric circumstances no site or level of governance has one-way sway over the others."[18]

A global public policy outlook is particularly suited to an analysis of the UN human rights ideology. Indeed, human rights may be conceived as a "global policy space" where states and a wide range of non-state actors interact to promote specific rules and values.[19] Owing to normative and operational factors, the UN enjoys a unique status within that global space. On the normative plane, thanks to its Charter and universal membership, the UN represents the most tangible expression of what is often referred to as the "international community." With regard to operations, the UN has more human and financial resources involved in the human rights global policy space than any other single actor. In sum, human rights is one of the issue areas where the UN has the capacity to "extend credibility and legitimacy" to global governance efforts.[20]

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15. David Held, Patrick Dunleavy & Eva-Maria Nag, *Editorial Statement*, 1 Global Pol'y 1 (2010).
16. *See* Wolfgang H. Reinicke, Global Public Policy: Governing Without Government? 70–71 (1998).
17. *See* Jan Aart Scholte, Globalization: A Critical Introduction 185–223 (2d ed., 2005).
18. *Id.* at 202.
19. William D. Coleman, *Governance and Global Public Policy, in* The Oxford Handbook of Governance 680 (David Levi-Faur ed., 2012).
20. Randall W. Stone, Controlling Institutions: International Organizations and the Global Economy 1 (2011).

Focusing mainly on the international civil service of the United Nations, which is less affected by national interests than the organization's intergovernmental components, this article looks at how the post-Cold War era has led to a transformation of the UN human rights ideology. The first part examines the UN discourse and shows how it has been influenced by the objective of making human rights progressively more universal and indivisible. The second section focuses on a set of global policies that illustrate how the United Nations has sought to put in practice the principle of "all human rights for all." Overall, this study sheds new light on the intellectual and political leadership of the United Nations in global affairs.

III. THE UN DISCOURSE ON HUMAN RIGHTS

Since the end of the Cold War, three major changes have affected the UN ideology and discourse on human rights. First, human rights have become far more important than before in UN affairs. Although the United Nations was always interested in human rights—the Charter proclaims the objective of "promoting and encouraging respect for human rights and for fundamental freedoms for all"—for a long time human rights remained aspirational and peripheral in its activities. However, the international landscape has changed in such a way that human rights now have a much higher status on the UN agenda.

Second, the UN increasingly defines human rights as an indivisible whole. This approach contrasts with the segmented approach that characterized UN human rights ideology for decades. It is important to recall that the UDHR, adopted in 1948, was supposed to be followed by a single treaty. However, the postwar human rights regime was in fact split into two covenants with distinct "generations" of rights. The first generation, concerning civil and political rights, and the second one, dealing with economic, social, and cultural rights, were often regarded "not as two sides of the same coin but as competing visions for the world's future."[21] Having distanced itself from this long prevailing outlook, the UN now insists more than ever on the interdependence and the holistic nature of human rights.

Third, the UN places greater emphasis on the universal nature of human rights. While it is true that the UN has always endeavored to defend the universality norm and the rights of the most vulnerable, in reality these concerns were often reduced to a "sideshow" to the East-West and North-South conflicts.[22] Since the 1990s, the changes on the world political scene

21. United Nations Development Programme (UNDP), Human Development Report 2000: Human Rights and Human Development iii (2000).
22. David P. Forsythe, *The UN and Human Rights at Fifty: An Incremental but Incomplete Revolution*, 1 Global Governance 299 (1995).

have given the UN far greater leeway to promote the application of human rights to all countries and individuals.

These three changes—to be examined more closely below—may not have amounted to a "revolution" in the UN human rights ideology. Yet they have been significant enough to suggest that the end of the Cold War has brought about a major shift in UN attitudes. This shift has been captured by the UN itself in one mantra-like phrase: "all human rights for all."

A. A Growing Concern

For twenty years, UN rhetoric has expressed a growing interest in human rights. As noted by Roger Normand and Sarah Zaidi, "[i]t seems that no [UN] document is now complete without reference to human rights."[23] According to David Forsythe, the rate at which Secretaries-General have raised this subject since the end of the Cold War has followed "almost a straight line progression."[24] This quantitative development has been furthermore accompanied by qualitative changes. Human rights are henceforth described as a "cross-cutting" issue, closely associated with other fundamental missions of the UN. Boutros Boutros-Ghali, Kofi Annan, and Ban Ki-moon have, each in his own way, underscored the need "to integrate human rights into all aspects of the Organization's work."[25]

Long considered a minor aspect of UN activities, human rights now constitute an essential element of the world body's identity. In this regard, Boutros-Ghali's *Agenda for Peace* marked a decisive step by identifying human rights as one of the three "great objectives of the Charter," alongside peace and development.[26] A decade later, while acknowledging the "significant and welcome elevation of the importance of human rights in the work of the Organization,"[27] Annan proposed to go even further by attributing "equal weight and attention"[28] to the three key purposes of the United

23. Roger Normand & Sarah Zaidi, Human Rights at the UN: The Political History of Universal Justice 320 (2008).
24. Forsythe, Human Rights in International Relations, *supra* note 2, at 80.
25. United Nations Secretary-General, *Report of the Secretary-General on the Work of the Organization, Delivered to the General Assembly*, ¶ 64, U.N. Doc. A/63/1 (12 Aug. 2008).
26. United Nations Secretary-General, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping: Report of the Secretary-General*, ¶ 3, U.N. Doc. A/47/277-S/24111 (17 June 1992) [hereinafter Agenda for Peace].
27. United Nations Secretary-General, *Report of the Secretary-General on the Work of the Organization, Delivered to the General Assembly*, ¶ 113, U.N. Doc. A/61/1 (16 Aug. 2006).
28. Press Release, Secretary-General, Secretary-General Hails Africa's Decade-long Progress in Development, Security, Human Rights in Address to African Union Summit in Gambia, UN Press Release SG/SM/10548 (3 July 2006), *available at* http://www.un.org/News/Press/docs/2006/sgsm10548.doc.htm.

Nations. Ban embraced his predecessor's approach and even borrowed a key idea from him, stating, "We must make human rights our third pillar."[29]

Based on the conviction that each of the organization's three "pillars" is to be defined in relation to the two others, the UN discourse has often stressed that human rights are constitutively linked to security and development. Annan and Ban have declared, each in turn, "we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights."[30] Both leaders have also used the image of the triangle to emphasize the interdependence of the three basic UN concerns. In *In Larger Freedom*, for instance, Annan maintained that the organization's overarching objective should be "to perfect the triangle of development, freedom and peace."[31] The angles of the UN triangle correspond to "three freedoms which all human beings crave—freedom from want, freedom from war or large-scale violence, and freedom from arbitrary or degrading treatment."[32] From the UN perspective, the pursuit of these three kinds of freedom make up a single political project, because "[u]nless all these causes are advanced, none will succeed."[33]

The new UN ideology is not restricted to reviewing the position of human rights in the organization's priorities. It has also insisted on the need to go beyond the promotion of human rights and focus more on their direct protection. Boutros-Ghali, for example, pointed out that in the absence of a system of effective guarantees, the human rights recognized by the UN were in danger of remaining "dead letters."[34] Later, Annan and Ban both called on the international community to turn its attention to the "challenge of implementation."[35] Not surprisingly, successive UN High Commissioners for Human Rights have also stressed the urgent need to push human rights

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29. Ban Ki-moon, *Address at the Royal Institute of International Affairs* (11 July 2007), *available at* http://www.un.org/apps/news/infocus/sgspeeches/search_full.asp?statID=100.
30. United Nations Secretary-General, *In Larger Freedom: Towards Development, Security and Human Rights for All*, ¶ 17, U.N. Doc. A/59/2005 (21 Mar. 2005) [hereinafter *In Larger Freedom*]. *See also* United Nations Secretary-General, *Human Security: Report of the Secretary-General,* ¶ 10, U.N. Doc. A/64/701 (8 Mar. 2010) [hereinafter *Human Security*].
31. *In Larger Freedom*, *supra* note 30, ¶ 12. *See also Human Security, supra* note 30, ¶ 10.
32. Press Release, United Nations Information Service, Secretary-General Says Global Outlook "Heart and Soul" of Macalester College at Global Citizenship Institute Inauguration in Saint Paul (22 Apr. 2006), *available at* http://www.unis.unvienna.org/unis/en/pressrels/2006/sgsm10425.html.
33. *In Larger Freedom*, *supra* note 30, ¶ 17.
34. Address by the Secretary-General of the United Nations at the Opening of the World Conference on Human Rights, U.N. Doc. A/CONF.157/22 (12 July 1993), *available at* http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/1f6f899067e6a078c125690a0031ce8d?Opendocument [hereinafter Opening World Conference].
35. United Nations Secretary-General, *Report of the Secretary-General on the Work of the Organization, Delivered to the General Assembly*, ¶ 80, U.N. Doc. A/62/1 (31 Aug. 2007).

diplomacy beyond standard-setting. In the words of Mary Robinson, High Commissioner from 1997 to 2002, the UN has a special role to play in "bringing the human rights vision closer to the lives of individuals."[36] Later, Louise Arbour and Navi Pillay would also repeatedly affirm that "implementation of human rights norms should be at the forefront of our common activities and objectives."[37]

B. The Indivisibility Norm

In the 1990s the United Nations began to show more and more resolve in defending the principle of the indivisibility of human rights. Until then, civil and political rights advocates had stood in opposition to economic and social rights defenders in "a shouting match characterized by attacks and denunciations."[38] It is noteworthy that already in 1986 the Declaration on the Right to Development had introduced the prospect of unifying to some degree the "dichotomy of freedoms" proclaimed by the United Nations.[39] But the real turning point in this process of convergence came with the Conference on Human Rights held in Vienna in 1993.

At the opening of the Vienna meeting, Boutros-Ghali called into question any hierarchical ranking of the various rights, stating that "civil and political rights and economic, social and cultural rights are equally important and worthy of attention."[40] The conference's final declaration very explicitly underscored the "universal, indivisible and interdependent and interrelated" nature of human rights.[41] Following Vienna, the idea that human rights form an indivisible "package" was established as a fundamental tenet of UN ideology.[42] This was reiterated most notably in the *2005 World Summit Outcome*, which made clear that all human rights must be treated "on the same footing and with the same emphasis."[43]

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36. Office of the High Commissioner for Human Rights (OHCHR), Annual Report 2001: Implementation of Activities and use of Funds 15 (2002), *available at* http://www.ohchr.org/Documents/AboutUs/annualreport2001.pdf.
37. OHCHR, Annual Report 2008: Activities and Results 5 (2009), *available at* http://www.ohchr.org/Documents/Press/OHCHR_Report_2008.pdf.
38. Thomas G. Weiss & Ramesh Thakur, Global Governance and the UN: An Unfinished Journey 262 (2010).
39. Desmond McNeill & Asunción Lera St. Clair, Global Poverty, Ethics and Human Rights: The Role of Multilateral Organisations 46 (2009).
40. Opening World Conference, *supra* note 34.
41. Vienna Declaration and Programme of Action, § I, ¶ 5, U.N. Doc. A/CONF.157/23 (12 July 1993) [hereinafter Vienna Declaration].
42. Thomas G. Weiss, David P. Forsythe, Roger A. Coate & Kelly-Kate Pease, The United Nations and Changing World Politics 176–78 (7th ed., 2014).
43. UNGA, *2005 World Summit Outcome*, ¶ 121, U.N. Doc. A/60/L.1 (15 Sept. 2005).

The indivisibility norm gave rise to the hope that after "decades of neglect," economic, social and cultural rights might at last receive the same attention as civil and political rights.[44] In their arguments supporting this idea, Annan and Ban both denounced the tendency of some states to adopt a selective approach towards rights. "One cannot pick and choose among human rights, ignoring some while insisting on others," Annan asserted, "[o]nly as rights equally applied can they be rights universally accepted."[45] A decade later, Ban expressed a similar view in support of the principle of the interdependence of rights: "we cannot be selective in promoting human rights. We must address the full spectrum of rights with equal force—civil, cultural, economic, social and political."[46]

Every High Commissioner for Human Rights has contributed to the promotion of a new balance between the two generations of rights. Mary Robinson, an ardent critic of the deregulation of capitalism and its effects on women, placed economic, social, and cultural rights at the heart of her discourse and work.[47] For her part, Louise Arbour forcefully defended the notion that extreme poverty was "one of the greatest threats to the respect of human dignity."[48] And Navi Pillay has regularly referred to the need to construct an international regime in which all rights "are realized without distinction."[49]

An important effect of the new accent placed on the indivisibility of rights was to facilitate the emergence of a human rights approach to poverty reduction and development. Bertrand Ramcharan, who was Acting High Commissioner from 2003 to 2004, has aptly noted that such an approach "was a long time in coming" but that it is "increasingly being recognized internationally."[50] The main assumption of a rights-based perspective is that poor people have not only needs but entitlements as well. By actively promoting this vision, UN ideology has been instrumental in legitimizing the idea that poverty is both the cause and the consequence of human rights "violations" that can be subject to legal prosecution.[51] In addition, the UN ideology has helped to inflect the debate on poverty by shifting it toward the objective of empowerment and away from moral considerations.

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44. Normand & Zaidi, *supra* note 23, at 320.
45. Kofi A. Annan, *Universal Declaration of Human Rights Illuminates Global Pluralism and Diversity* (10 Dec. 1997), *available at* http://www.un.org/rights/50/dpi1937.htm [hereinafter *Universal Declaration*].
46. Ban Ki-moon, *Remarks to the Human Rights Council*, UN News Centre (25 Jan. 2011), *available at* http://www.un.org/apps/news/infocus/sgspeeches/search_full.asp?statID=1052.
47. *See* David P. Forsythe, *Mary Robinson, in* Encyclopedia of Human Rights Vol. 4, at 348 (David P. Forsythe ed., 2009).
48. William A. Schabas, *Louise Arbour, in* Encyclopedia of Human Rights Vol. 1, *supra* note 47, at 90.
49. OHCHR, Annual Report 2008, *supra* note 37, at 5.
50. OHCHR, Human Rights and Poverty Reduction: A Conceptual Framework iii (2004).
51. OHCHR, Claiming the Millennium Development Goals: A Human Rights Approach 7 (2008).

C. The Universality Norm

Another feature of the UN discourse over the past twenty years is its new emphasis on the need to make human rights universal. The promotion of this universality norm has followed two itineraries. On one hand, the UN has focused unprecedented attention on vulnerable social groups; on the other hand, it has rejected all forms of cultural relativism when it comes to human rights. "Ensuring that everybody is able to enjoy their human rights" has now become a central goal of UN ideology.[52]

To be sure, the notion of universal rights has always been a major source of inspiration for the UN. But as noted by Boutros-Ghali, the end of the Cold War made possible "a deeper understanding [. . .] and respect for the needs of the more vulnerable groups of society."[53] Today, the UN lays far greater stress than before on the idea that the protection of the rights of vulnerable groups and disadvantaged persons is a catalyst for social integration.[54] An important problem facing the UN, however, is that "[f]ar too often, people who need their rights most know their rights least."[55] The new attention paid to the rights of women, children, and cultural minorities provides a particularly apt illustration of the United Nations post-Cold War approach.

Wishing to go beyond the principle of gender equality inscribed in the Charter, the UN has stepped up its efforts to define and support women's rights more effectively. The Vienna Conference thus asserted that the rights of women are "an inalienable, integral and indivisible part of universal human rights."[56] Two years later the Beijing Conference on Women proclaimed, "Women's rights are human rights."[57] This powerful formula, often echoed by UN leaders, has served as a normative justification for numerous policy initiatives.

Children's rights have been another high profile issue of the post-Cold War era. Adopted unanimously in 1989, the Convention on the Rights of the Child has fostered a remarkable international consensus and left a deep imprint on UN discourse. In 2002, while reporting on the progress made since the 1989 accord, Annan wrote, "[t]here is no task more important than building a world in which all of our children can grow up to realize their

52. United Nations, The United Nations Development Agenda: Development for All 16 (2007).
53. Agenda for Peace, *supra* note 26, ¶ 81.
54. *See* United Nations, The United Nations Development Agenda, *supra* note 52, at 40–41.
55. Ban Ki-moon, *Remarks to the High-Level Panel on Human Rights Mainstreaming at the Human Rights Council in Geneva*, UN News Centre, 1 Mar. 2013, *available at* http://www.un.org/apps/news/infocus/sgspeeches/statments_full.asp?statID=1777#.
56. Vienna Declaration, *supra* note 41, § I, ¶ 18.
57. UNGA, *Fourth World Conference on Women: Action for Equality, Development, and Peace, Beijing Declaration and Platform for Action*, ¶ 14, U.N. Doc. A/CONF.177/20 (17 Oct. 1995).

full potential, in health, peace and dignity."[58] On the twentieth anniversary of the Convention, Ban stated, "children should always have the first claim on our attention and resources," thus confirming in his turn the extent of the UN responsibilities regarding the rights of children.[59]

Finally, the last two decades have seen the United Nations focus ever more attention on the rights of cultural minorities. A year after the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,[60] the Vienna Conference affirmed "the obligation of States to ensure that persons belonging to minorities may exercise fully and effectively all human rights."[61] Minority rights were vigorously reaffirmed at the 2001 Durban World Conference against Racism.[62] The case of indigenous peoples epitomizes the new UN concern for minorities. Widely perceived as a major normative innovation, the 2007 Declaration on the Rights of Indigenous Peoples went beyond anti-discrimination and recognized the right of indigenous peoples to "participate fully" in all aspects of social life.[63] Since then, the UN official discourse consistently defends indigenous peoples as "equal members of the United Nations family."[64]

The promotion of the universality norm has also been based on the rejection of cultural relativism. In this connection, the Vienna Conference provided a "decisive rebuff of arguments [. . .] against the full implementation of internationally recognized human rights."[65] At the opening of the meeting, Boutros-Ghali defined human rights as the "common language of humanity."[66] He also made clear that ideological splits and economic disparities "cannot interfere with the universality of human rights."[67] The Declaration adopted at the close of the conference affirmed that the universality of human rights was quite simply "beyond question,"[68] a view that soon became a touchstone principle of UN ideology. For example, at the fiftieth anniversary of the UDHR, Annan stressed that "[h]uman rights, properly understood

58. United Nations, Kofi A. Annan, We the Children: Meeting the Promises of the World Summit for Children, at Preface (2001).
59. Ban Ki-moon, *Remarks on the Twentieth Anniversary of the Convention on the Rights of the Child*, UN News Centre, 20 Nov. 2009, *available at* http://www.un.org/apps/news/infocus/sgspeeches/search_full.asp?statID=651.
60. UNGA, Res. 47/135, U.N. Doc. A/RES/47/135 (18 Dec. 1992).
61. Vienna Declaration, *supra* note 41, § I, ¶ 19.
62. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, 31 Aug.–8 Sept. 2001, U.N. Doc. A/CONF.189/12, at 6 (2001).
63. UNGA, Declaration on the Rights of Indigenous Peoples, Res. 61/295, U.N. Doc. A/RES/61/295, art. 5 (13 Sept. 2007).
64. Ban Ki-moon, *Remarks at Opening of the Ninth Session of the UN Permanent Forum on Indigenous Issues*, UN News Center (19 Apr. 2010), *available at* http://www.un.org/apps/news/infocus/sgspeeches/search_full.asp?statID=790.
65. Jack Donnelly, International Human Rights 23 (3rd ed., 2007).
66 Opening World Conference, *supra* note 34.
67. *Id.*
68. Vienna Declaration, *supra* note 41, § I, ¶ 1.

and justly interpreted, are foreign to no culture and native to all nations."[69] And Ban subsequently endorsed this approach, stating that "[w]here there is tension between cultural attitudes and universal human rights, universal human rights must carry the day."[70]

In denouncing cultural relativism, the UN clearly signaled that human rights were a precondition rather than a product of development. To quote the *Human Development Report 2000*, "human rights are not [. . .] a reward of development. Rather, they are critical to achieving it."[71] Annan espoused this notion, explaining that "[h]uman rights are as fundamental to the poor as to the rich."[72] For Annan, far from being a privilege of the well-to-do or a result of Western domination, human rights constituted the foundation of universal human dignity. Reiterating his predecessor's vision, Ban argued that one of the fundamental UN missions was "to shine the light of human rights everywhere, including the darkest corners of the world." In this endeavor, he insisted, there could be "no exceptions."[73]

To sum up, since the end of the Cold War, the UN discourse on human rights has changed significantly. Informed by social-democratic liberalism, it attributes far greater importance to human rights than ever before. Cast in terms of indivisibility and universality, the UN rhetoric also shows sounder internal logic. Yet the full significance of the ideology of "all human rights for all" can only be understood by looking at the organization's efforts to put it into practice.

IV. GLOBAL HUMAN RIGHTS POLICY-MAKING

UN aspirations in the area of human rights are still a long way from corresponding to the realities of world politics. In both the North and the South, violations of human rights are everyday occurrences. It is nevertheless remarkable that, since the end of the Cold War, the United Nations has set up a coherent framework of public policies aimed at reducing the gap between its ambitious discourse and effective respect for human rights. Among these practical initiatives the most significant are related to the mainstreaming of human rights and the creation of two institutions: the Office of the High Commissioner for Human Rights (OHCHR) and the Human Rights Council.

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69. Annan, *Universal Declaration*, *supra* note 45.
70. Ban Ki-moon, *Remarks at Event on Ending Violence and Criminal Sanctions Based on Sexual Orientation and Gender Identity [as delivered]*, UN News Centre (10 Dec. 2010), *available at* http://www.un.org/apps/news/infocus/sgspeeches/search_full.asp?statID=1034.
71. UNDP, *supra* note 21, at iii.
72. *In Larger Freedom*, *supra* note 30, ¶ 140.
73. Ban Ki-moon, *Address to the Council of Europe*, UN News Centre (19 Oct. 2010), *available at* http://www.un.org/apps/news/infocus/sgspeeches/search_full.asp?statID=983.

A. Mainstreaming Human Rights

Since the 1990s, the mainstreaming of human rights has come to the fore as a new orientation of UN governance, and human rights have been the focus of greater attention "throughout the UN system."[74] Reflecting the desire to better integrate human rights in all UN activities, the notion of mainstreaming represents the ultimate organizational objective of contemporary UN human rights ideology. It comes as no great surprise that the mainstreaming policy has generated "uneven" results.[75] That said, the UN new approach has helped to start a rebalancing of political versus social rights promotion, and to universalize the whole range of human rights.

The impact of human rights mainstreaming can be observed in the development and security fields. In the realm of development, the mainstreaming of human rights has led to improved inter-agency coordination. New norms were institutionalized in 1998 with the signature of a partnership agreement between the OHCHR and the United Nations Development Programme (UNDP).[76] As of 2004, in the wake of Annan's report on UN reform, the so-called "Action 2" initiative broadened the original partnership to include the OHCHR, the UN Development Group (UNDG), and the Executive Committee on Humanitarian Affairs. The explicit goal of Action 2 was to provide coordinated inter-agency support to UN country teams in order to better integrate human rights into their development work.[77] In 2009, Action 2 was transformed into the UNDG Human Rights Mainstreaming Mechanism, which involved all UN development agencies, funds, and programs. The purpose of this mechanism was to assist national human rights institutions and to "further strengthen system-wide coherence" on human rights mainstreaming.[78]

Inter-agency coordination was fostered by the articulation of a common human rights-based approach (HRBA) to development. Until the early 2000s UN agencies had put forward an array of conceptions of the relationship between development and human rights. In 2003, the cacophony was reduced thanks to the Stamford Common Understanding, which established an institutional consensus around the three "essential attributes" of the HRBA.[79]

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74. Julie A. Mertus, The United Nations and Human Rights: A Guide for a New Era 4 (2d ed., 2009).
75. Gerd Oberleitner, *A Decade of Mainstreaming Human Rights in the UN: Achievements, Failures, Challenges*, 26 Neth. Q. Hum. Rts. 386 (2008).
76. *See id.* at 368.
77. *See* United Nations Secretary-General, *Strengthening of the United Nations: An Agenda for Further Change,* Report of the Secretary-General, ¶ 51, U.N. Doc. A/57/387 (9 Sept. 2002).
78. UNDG, *Human Rights Mainstreaming Mechanism: Summary of the Operational Plan 2011–2013,* 2 (2011), *available at* http://www.mdtf.undp.org/document/download/8302.
79. OHCHR, Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation 15 (2006), *available at* http://www.ohchr.org/Documents/Publications/FAQen.pdf.

The Common Understanding stipulated that all development cooperation programs should further the realization of human rights.[80] It also specified that the standards resulting from international human rights treaties "guide all development cooperation and programming in all sectors and in all phases of the programming process."[81] Finally, the Stamford agreement indicated that "[d]evelopment cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights."[82] Even though the HRBA is the subject of ongoing discussion in the UN, the principles of the Stamford Common Understanding have clearly led UN country teams to be more mindful of the social and economic rights of "vulnerable groups."[83]

Because security remains largely subject to an intergovernmental logic, the policy of human rights mainstreaming could not be implemented as systematically in that area as it was in the development activities of the UN. Once the Cold War came to a close, however, the spirit of mainstreaming began to shape UN security practices. In 1991 and 1992 the Security Council adopted resolutions 688 and 794 concerning, respectively, the repression of Iraqi Kurds and the humanitarian crisis in Somalia.[84] These resolutions introduced "a new line of argument" to the effect that human rights violations can threaten international peace and security.[85] The trend of linking international security to respect for human rights was confirmed in 2005 when UN members accepted the doctrine of "Responsibility to Protect."[86] Despite the inconsistency typical of the Security Council's attitude, the fact remains that its decisions are influenced more and more by human rights issues.[87] In applying this new approach, the Security Council took groundbreaking initiatives aimed at protecting civilians in armed conflicts. In particular, since 1999 a number of resolutions have been adopted in favor of protecting children and women affected by armed conflicts. One such resolution that

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See also United Nations, The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies (2003), *available at* http://www.hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies.

80. United Nations, The Human Rights Based Approach to Development Cooperation, *supra* note 79.
81. *Id.* at 16.
82. *Id.* at 35.
83. *See* UNDG, *Mainstreaming Human Rights for Better Development Impact and Coherence* (2012), *available at* http://www.mdtf.undp.org/document/download/7508; United Nations, Guidelines for UN Country Teams on Preparing the CCA and UNDAF (2009), *available at* http://www.undg.org/docs/9879/WGPI_2007-CCA-and-UNDAF-Guidelines-FINAL-February-2009-LOCKED.doc.
84. S.C. Res. 688, U.N. Doc. S/RES/688 (5 Apr. 1991); S.C. Res. 794, U.N. Doc. S/RES/794 (3 Dec. 1992).
85. Gerd Oberleitner, Global Human Rights Institutions: Between Remedy and Ritual 143 (2007).
86. *See* Forsythe, Human Rights in International Relations, *supra* note 2, at 26–27.
87. *See id.* at 74–77.

attracted considerable media attention set up a monitoring and reporting mechanism on the recruitment and use of child soldiers.[88]

The mainstreaming of human rights also brought about a significant change in UN peace operations. Directed toward peacebuilding, every "second generation" operation launched after the end of the Cold War has paid attention to the protection of human rights.[89] Admittedly, peacebuilding efforts continue to be torn between a "liberal" and a "republican" approach toward human rights; nevertheless, peace operations in recent years have consistently recognized that achieving long term political stability requires the creation of a "culture of human rights."[90]

Finally, the Security Council has institutionalized new practices in order to subject individuals responsible for massive human rights violations to international criminal law. In the aftermath of the massacres in Yugoslavia (1993) and Rwanda (1994), the Council established *ad hoc* penal tribunals to prosecute those responsible for war crimes and crimes against humanity.[91] More recently, at the end of the civil wars in Sierra Leone and East Timor, the Council assisted both countries in creating special criminal courts.[92] Lastly, the Security Council also submitted to the International Criminal Court cases of massive human rights violations in Sudan (2005) and Libya (2011).[93]

The mainstreaming of human rights in UN activities has not resulted in the paradigm shift that some had hoped for. World politics remain largely defined by the principle of sovereignty and power relations, especially when it comes to security and economic matters. Yet, at the same time, current UN policies attribute greater importance to human rights than was previously the case. In this evolutionary process, the notion of mainstreaming has provided a governance framework that has helped orient and legitimize decision making.

B. The Office of the High Commissioner for Human Rights

The creation of the OHCHR in 1993 is another UN initiative that has had a profound influence on the recent evolution of the human rights global policy

88. *See* S.C. Res. 1612, U.N. Doc. S/RES/1612 (26 July 2005).
89. Melissa Labonte, *Peacebuilding, in* Encyclopedia of Human Rights Vol. 4, *supra* note 47, at 197–98. *See also* David P. Forsythe, The UN Security Council and Human Rights: State Sovereignty and Human Dignity 9 (2012).
90. Labonte, *Peacebuilding, supra* note 89, at 199. In peacebuilding operations, a liberal approach towards human rights typically focuses on the promotion of political and economic competition. By contrast, a republican approach emphasizes the principles of representation, deliberation, and participation. *See* Michael Barnett, *Building A Republican Peace: Stabilizing States After War,* 30 Int'l Security 87 (2006).
91. *See* International Criminal Tribunal for the Former Yugoslavia (ICTY), http://www.icty.org/; International Criminal Tribunal for Rwanda (ICTR), http://www.unictr.org/.
92. *See* Forsythe, The UN Security Council and Human Rights, *supra* note 89, at 10.
93. *Id.*

space. As Julie Mertus noted, the OHCHR "has consistently increased the relevance of human rights issues within the United Nations and improved human rights practices at the regional, national, and local levels."[94] As a unique source of technical expertise and political leadership, the OHCHR has helped to concretize the ideology of "all human rights for all" in an innovative way.[95]

The origins of the OHCHR go back to the period just after the Second World War. In 1947 the French jurist René Cassin, one of the authors of the UDHR, proposed to mandate an attorney general for human rights.[96] This proposal was taken up again in various forms during the Cold War but was always stymied by the ideological divisions then prevailing in international affairs. In both the East and South, the attorney general project raised fears that the position would serve to promote a Western vision of human rights centered on civil and political rights. As of the mid-1980s, however, international attitudes began to change significantly. The diffusion of democratic norms and the UN recognition of the right to development paved the way for a new compromise on the principles of the universality and indivisibility of human rights. With the end of the Cold War this nascent compromise was given a decisive political boost.

At the 1993 Vienna Conference on Human Rights, "support for the OHCHR proved to be extremely broad and strong."[97] The assembled governments thus agreed to create a post of High Commissioner, who would be responsible "for the promotion and protection of all human rights."[98] A few months later the General Assembly resolution that instituted the OHCHR assigned it four ambitious tasks: 1) coordination of human rights-related activities throughout the UN system; 2) establishment of norms; 3) direct protection of human rights; and 4) advocacy.[99]

Today, the OHCHR is identified as "the leading UN entity on human rights."[100] This status has been enshrined through the High Commissioner's ranking as UN Under-Secretary-General, and his or her membership in the four executive committees of the organization (Peace and Security, Economic and Social Affairs, Development Cooperation, and Humanitarian Affairs).[101] It is important to note as well that within the human rights community the

94. Mertus, *supra* note 74, at 36.
95. Theo van Boven, *United Nations High Commissioner for Human Rights, in* Encyclopedia of Human Rights Vol. 5, *supra* note 47, at 175.
96. *Id.* at 173.
97. Mertus, *supra* note 74, at 12.
98. Vienna Declaration, *supra* note 41, § II, A, ¶ 18.
99. *See* UNGA, Res. 48/141, U.N. Doc. A/RES/48/141 (20 Dec. 1993).
100. OHCHR, Annual Report 2011 21 (2012), *available at* http://www2.ohchr.org/english/ohchrreport2011/web_version/ohchr_report2011_web/allegati/downloads/0_Whole_OHCHR_Report_2011.pdf.
101. *See* Mertus, *supra* note 74, at 13.

High Commissioner enjoys great moral authority, especially in light of the fact that the incumbents—half of them women thus far—have often displayed independence when taking positions.[102]

The OHCHR has considerable human and financial resources to fulfill its mandate as compared with the scant resources that were available to promote human rights before the institution was created. In 2011 it had 1,131 employees: 555 (49 percent) in Geneva, 555 in the field (49 percent) and 21 in New York (2 percent).[103] Meanwhile, the institution's regular budget has constantly increased, going from under $3 million in 1995 to almost $152 million in 2010–2011.[104] A key aspect of this evolution is no doubt the proportion of expenditures devoted to field missions (48 percent). In fact, the expansion of the OHCHR's fieldwork has been described as "the most influential development to have occurred since the establishment of the post of the High Commissioner."[105] Thanks to its active in-country presence the OHCHR has often been compared to the UN Office of the High Commissioner for Refugees, one of the most credible and efficient multilateral agencies.[106]

In charge of mainstreaming human rights in UN policies, the OHCHR has helped to give a concrete form to the ideology of indivisible and universal rights. Thus, the principle of indivisibility of human rights is reflected in every aspect of the operations of the OHCHR. The organization's bureaucratic structure and thematic strategies clearly testify to a desire to strike a balance between civil and political rights on one hand, and economic, social and cultural rights on the other. In its own way, each of the programs of the OHCHR opposing discrimination, combating inequality and poverty, defending the rights of migrants or protecting human rights in armed conflicts puts forward a holistic approach designed to promote the effective application of democratic principles and the empowerment of people.

The OHCHR furthermore contributes in different ways to making human rights universal. For one thing, it should be recalled that one of the fundamental missions of the OHCHR is to encourage the universal ratification and implementation of all major international human rights agreements. In addition, the body's geographic deployment attests to a wish to provide assistance and training on all continents. In 2012 the OHCHR ran twelve country and stand-alone offices in addition to thirteen regional offices, was involved in fifteen peace missions, and coordinated eighteen human rights advisers.[107] The decentralization of its operations allows the organization to

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102. *See* Forsythe, Human Rights in International Relations, *supra* note 2, at 84–85.
103. OHCHR, Annual Report 2011, *supra* note 100, at 22.
104. *Id.* at 23. *See also* Oberleitner, Global Human Rights Institutions, *supra* note 85, at 91.
105. Oberleitner, Global Human Rights Institutions, *supra* note 85, at 91.
106. *See* Alfred de Zayas, *José Ayala Lasso, in* Encyclopedia of Human Rights Vol. 1, *supra* note 47, at 130–32.
107. *See* OHCHR, Annual Report 2011, *supra* note 100, at 8 and 22.

exercise influence virtually everywhere, including most of the poorest and least safe countries in the world. Finally, the OHCHR endeavors to promote the universality norm by attending to the improvement of human rights for all individuals. In accordance with the UN discourse that advocates the goal of social inclusion, its activities consistently focus on vulnerable groups: women, children, indigenous peoples, ethnic minorities, persons with disabilities, and sexual minorities.

The establishment of the OHCHR represents one of the greatest innovations in the recent history of multilateral cooperation. Of course, the OHCHR still faces persistent power struggles, disputes over its mandate, and financial constraints. Gerd Oberleitner has aptly summed up the organization's challenges, stating that it had a "mission impossible" because it is "part servant at the disposal of governments, part shield against those very governments."[108] Even so, the OHCHR has pushed the international politics of human rights "beyond . . . standard-setting," and its actions have strengthened the norms of the indivisibility and universality of rights.[109] Compared to the Cold War period the OHCHR has clearly given unprecedented momentum to human rights diplomacy.

C. The Human Rights Council

UN efforts to translate the ideology of "all human rights for all" into global policy culminated with the creation of the Human Rights Council (Council) in 2006. Because of its inter-governmental nature and its broad mandate, the Council is often perceived to be the "central pillar" of the UN human rights system.[110] Though it remains the object of harsh criticisms, the Council has contributed nonetheless to further institutionalizing the principles of universal and indivisible rights.

The Council replaced the Commission on Human Rights (Commission) established in 1946. Over its sixty-year existence, the Commission had some undeniable success in setting human rights standards and in examining gross violations of human rights, particularly those related to apartheid and colonialism.[111] As of the 1960s, the Commission's innovation was exhibited with the creation of special procedures: a series of investigation mechanisms implemented by independent experts, special rapporteurs, or working groups for the purpose of monitoring specific countries and rights. At the turn of the millennium, however, the Commission was assailed from

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108. Oberleitner, Global Human Rights Institutions, *supra* note 85, at 89.
109. Mertus, *supra* note 74, at 35.
110. *In Larger Freedom*, *supra* note 30, ¶ 146.
111. *See* Jarvis Matiya, *Repositioning the International Human Rights Protection System: The UN Human Rights Council*, 36 Commonwealth L. Bull. 314 (2010).

all sides for its "eroding credibility and professionalism."[112] Debates were plagued by accusations of selectivity from countries of the South. Membership became a source of rising tension in 2002 when Syria was elected to the Commission and the United States was not. This adversarial climate seriously undermined the Commission's otherwise significant work but it also helped create a "surprising degree of consensus" around the need to reform the UN human rights system.[113]

Following proposals made by the High Level Panel on Threats, Challenges and Change and the Secretary-General, the 2005 World Summit provided an ideal setting for designing a new institution that would remedy the Commission's deficiencies. Although the world leaders who convened in New York rejected Annan's most ambitious reform plans, they did reach a political agreement on the creation of a Human Rights Council. In the ensuing months, institutional arrangements were ironed out and adopted by the General Assembly, opening "a new era" in the human rights work of the United Nations.[114]

The promotion from Economic and Social Council subsidiary to the General Assembly gave the Council more authority and a higher political profile. In becoming "accountable to the full membership of the UN," the Council took a major step towards universalizing the monitoring of human rights.[115] Several other institutional changes were introduced to depoliticize the human rights system and increase its legitimacy. In particular, to move away from regional horse-trading, it was determined that election to the Council would require a majority vote in the Assembly. Also, to end *de facto* permanent membership for powerful countries, states would serve a maximum of two three-year terms. The geographic balance in seats was readjusted to reflect current population figures. Finally, the human rights record of candidate countries would inform the election process and membership would be suspended in the event of gross human rights violations.

The reform also steered the new human rights body towards increased efficiency. For instance, the Council was to convene at least ten weeks per year in three sessions, compared to the previous annual six-week gathering in the spring. More fundamentally, the Council mandate emphasized the objective of "strengthening the capacity of Member States to comply with

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112. The Secretary-General's High-level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility* ¶ 283 (2004), *available at* http://www.un.org/en/peacebuilding/pdf/historical/hlp_more_secure_world.pdf [hereinafter *HLPTCC*].

113. Philip Alston, *Reconceiving the UN Human Rights Regime: Challenges Confronting the New UN Human Rights Council*, 7 Melbourne J. Int'l L. 186 (2006).

114. Press Release, Secretary-General, *"The Eyes of the World are Upon You," Secretary-General Says in Address to First Meeting of Human Rights Council*, U.N. Doc. SG/SM/10520 (19 June 2006), *available at* http://www.un.org/News/Press/docs/2006/sgsm10520.doc.htm.

115. Reforming the United Nations: The Challenge of Working Together 24 (Joachim Müller ed., 2010).

their human rights obligations."[116] Furthermore, it was hoped that improved efficiency would go hand in hand with a "change in culture" from confrontation to cooperation.[117] This new mindset would help members focus on issues of substance "rather than who is debating and voting on them."[118]

The Council also embodied the universality and indivisibility principles at the heart of the UN human rights ideology. Its founding document reaffirmed that "all States, regardless of their political, economic and cultural systems, have the duty to promote and protect all human rights and fundamental freedoms."[119] To uphold those principles, the Council set up three innovative devices as part of its institution-building package: new special sessions, enhanced special procedures, and a universal periodic review (UPR).

Any state can now call special sessions on human rights emergencies. These sessions "should allow participatory debate, be results-oriented and geared to achieving practical outcomes."[120] So far, some special sessions have addressed global issues such as the impact of the economic, financial, and food crises on human rights. Others have looked at country situations, including those of Côte d'Ivoire, Darfur, the Democratic Republic of the Congo, Haiti, Lebanon, Libya, Myanmar, Palestine, Sri Lanka, and Syria. While critics still deplore the persisting "selectivity" of such sessions, they do offer a new protection tool and, hence, have helped to put UN principles into practice.

Special procedures—the Commission's most celebrated achievement—are "at the heart of the Council's work."[121] Their multiplication since 2006 has confirmed the predominance of thematic over country mandates, thereby reinforcing the universality norm, since "all States are, at least in principle, equally under scrutiny."[122] Covering themes such as the right to water and sanitation, human rights and transnational corporations, and environmental rights, the new special procedures mandates have also supported the indivisibility of rights by helping to shift the balance in favor of socio economic rights. Under the Council, special procedures have generated discussions that have been "unprecedented in their vitality, the depth of interaction [. . .], and the level and nature of participation."[123] It is still a challenge for

116. UNGA, Res. 60/251, U.N. Doc. A/Res/60/251, at 2 (3 Apr. 2006) [hereinafter Human Rights Council].
117. Press Release, Secretary-General, "The Eyes of the World are Upon You," *supra* note 114.
118. *HLPTCC*, *supra* note 112, ¶ 285.
119. Human Rights Council, *supra* note 116, at 1.
120. Human Rights Council, Institution-Building of the United Nations Human Rights Council, U.N. Doc. A/HRC/RES/5/1 (18 June 2007), ¶ 128.
121. Alston, *supra* note 113, at 215. *See also* Oberleitner, Global Human Rights Institutions, *supra* note 85, at 54–62.
122. Oliver Hoehne, *Special Procedures and the New Human Rights Council—A Need for Strategic Positioning*, 4 Essex Hum. Rts. Rev. (2007).
123. Yvonne Terlingen, *The Human Rights Council: A New Era in UN Human Rights Work?*, 21 Ethics & Int'l Aff. 176 (2007).

mandate holders to enter some countries, session time allocated to their reports remains limited, and poor funding constrains follow-up, but overall the transition to the Council has strengthened special procedures.

The UPR is the Council's "one entirely new mechanism."[124] It also provides one of the best examples of how the universality principle has been incorporated into UN human rights policies. Under the UPR mechanism, every four years all UN member states undergo a peer review that assesses their respect and implementation of all human rights. In a typical UPR session, the state under review begins by presenting a national human rights report prepared in consultation with civil society. It then responds to comments and questions and hears recommendations informed by the input of UN members and other stakeholders. Governments ultimately remain "parties and judges at the same time" because they are free to determine their implementation commitments.[125] Yet in its own modest way the UPR has contributed "something new and different to human rights monitoring."[126] In particular, observers have noted the "substantial success in injecting human rights concerns raised by NGOs into the UPR process."[127] All states participated in the first UPR cycle, and as the second cycle began in 2012 the Council's focus was likely to shift towards "implementation of the accepted commitments."[128] While the jury is still out on the UPR's impact on the ground, this mechanism certainly has added political strength to universality and indivisibility norms.

The creation of the Council resulted from complex political negotiations. As Ramcharan explains, there are inherent contradictions between its fundamental nature as "a political body and its lofty values mandate."[129] Others have suggested that the changes introduced by the Council are "largely procedural."[130] Clearly, such criticisms cannot be dismissed. Yet one should not overlook the fact that the Council is often viewed as "the cornerstone" of recent UN reform efforts.[131] The Council may provide further evidence that the politics of international human rights evolves at a painfully slow

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124. Gareth Sweeney & Yuri Saito, *An NGO Assessment of the New Mechanisms of the UN Human Rights Council*, 9 Hum. Rts. L. Rev. 203 (2009).
125. Matiya, *supra* note 111, at 321.
126. Rhona Smith, *"To See Themselves as Others See Them": The Five Permanent Members of the Security Council and the Human Rights Council's Universal Periodic Review*, 35 Hum. Rts. Q. 28 (2013).
127. Lawrence C. Moss, *Opportunities for Nongovernmental Organization Advocacy in the Universal Periodic Review Process at the UN Human Rights Council*, 2 J. Hum. Rts. Prac. 123 (2010).
128. Press Release, Human Rights Council, *Human Rights Council Holds General Debate on Universal Periodic Review* (16 Mar. 2012), *available at* www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11980&LangID=E.
129. Bertrand Ramcharan, The UN Human Rights Council 123 (2011). *See also* Rosa Freedman, The United Nations Human Rights Council: A Critique and Early Assessment 297 (2013).
130. Normand & Zaidi, *supra* note 23, at 338.
131. Reforming the United Nations, *supra* note 115, at 24.

pace, but its very existence brings strong institutional support to the UN human rights ideology.

V. CONCLUSION

This article has shown that since the end of the Cold War the United Nations has maintained a consistent ideology of human rights through both its discourse and a series of global public policies. In addition to proclaiming the promotion of human rights a political objective comparable to peace and development, present day UN ideology is exceptionally steadfast in asserting the indivisibility and universality of human rights. The policy of human rights mainstreaming as well as the creation of the OHCHR and the Council clearly illustrate UN efforts to translate this ideology into practice.

In highlighting the United Nations aspirations and accomplishments, this article of course has only provided a partial view of the human rights global policy space. It is a well-known fact that the state of human rights in the world lags far behind UN ideals. According to the approach used here, this situation can be ascribed to the UN being only one actor among many in the "global competition of ideas."[132] In the realm of human rights, as in most areas, states remain the key political forces of international relations. And states are often inclined to contest the principles of the indivisibility and universality of human rights as advocated by the UN.

Many countries of the North continue to oppose the indivisibility principle and to regard civil and political rights as more important than economic and social rights. It is telling, for instance, that wealthy states persist in seeing the right to development as a set of moral rather than legal commitments. Even when they agree to discuss economic rights, these countries uphold a hierarchical approach to human rights and often place the rights of investors above those of workers. As for countries of the South, they remain mistrustful of the universality norm. Their support for universal principles is often diluted by clauses emphasizing "respect for national sovereignty and territorial integrity," and the need to "tak[e] into account the political, historical, social, religious and cultural particularities of each country."[133]

All in all, it is obvious that states resist any human rights ideology that puts in doubt their own definition of the national interest. The particularity of the last two decades lies elsewhere. It resides in the fact that an organization such as the UN has managed to build an international compromise around "all human rights for all," and shown growing determination in introducing

132. Weber & Jentleson, *supra* note 10, at 17–60.
133. Non-Aligned Movement, *Final Document*, 16th Summit of Heads of State or Government of the Non-Aligned Movement, Tehran, 26–31 Aug. 2012, at 133.

human rights considerations into global politics. Critics are no doubt right to point out that the impact of UN ideology remains limited. Yet it is most certainly on the rise and, as one expert suggests, for many people in many countries that has meant "progress."[134]

134. Thomas Buergenthal, *The Evolving International Human Rights System*, 100 Am. J. Int'l L. 807 (2006).

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