

HUMANITIES INSTITUTE

HISTORY OF HUMAN RIGHTS

Course Description

This course surveys how human rights and values have changed in response to major developments like the rise of agriculture or the major world religions. Human rights center on ethical norms intended to guide human and institutional behavior, and applicable to all people simply on grounds of their shared humanity – regardless of race, gender, social class or region. Specific rights have varied somewhat over time, but the notion of their moral force and uniform applicability remains a central defining characteristic.

About the Professor

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Introduction

Definition Human rights center on ethical norms intended to guide human and institutional behavior, and applicable to all people simply on grounds of their shared humanity – regardless of race, gender, social class or region. Specific rights have varied somewhat over time, but the notion of their moral force and uniform applicability remains a central defining characteristic.

Historical approach Sketching the development of human rights in a world history context is both productive and challenging. Productive, in that human rights are definitely a product of historical developments and have come to play a significant role in the history of many societies, particularly in the past 75 years. Historical analysis helps chart the reasons human rights ideas and principles have emerged; how they have evolved—among other things, to include categories far beyond what was previously envisaged; how they have helped generate changes in a variety of political systems; but also how they have divided, and continued to divide, major regions of the world.

Modern-premodern divide But the project is challenging for several reasons. Most important is the fact that the full emergence of human rights is a modern phenomenon – 18th century at the earliest, and in a full sense really 20th century, which was when the term itself first began to be used. This means that the bulk of world history occurred with human rights, in any explicit sense, absent. Thus treatment of familiar topics like the emergence of the classical civilizations or the world religions plays a lesser role for this subject than for most world history fare. Treatment of developments before the late 18th century must

balance some changes that had (incomplete) human rights implications, with analysis of what was missing – always a tricky combination that may fail to do justice to the chronological periods in question. The “premodern” history of human rights deserves attention, but it is inherently complex.

Role of the West The second challenge in dealing with human rights involves its largely Western origins: human rights, or at least the clear forerunners, are products of the Western Enlightenment and then the Atlantic revolutions. This can make world historians legitimately nervous, because of the dangers of overdoing Western influence and virtue. The actual account of the Western treatment of human rights can offset the risk in part – this is hardly a Western success story, particularly in the 19th and early 20th centuries – but Western origins continue to complicate the topic even today – for historians and political leaders alike.

Results The third challenge, centered on recent world history, involves figuring out what actual effects human rights principles have had, as opposed to high-sounding but largely neglected phrases in international documents and national constitutions. This includes making inevitable judgments about different receptions of human rights depending on region and political regime.

Chronology The essays that follow divide clearly between assessments of relevant developments and limitations before the advent of rights language – that is, in early, classical, postclassical and even most of early modern periods in world history – and the analysis of the emergence of rights concepts and their complicated evolution essentially in the long 19th and 20th/21st centuries. Both sections will generate ample opportunities for further debate and explicit research, but in combination both should suggest how and why human rights emerged as a factor in world history and what some of the key results have been.

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Suggested Reading:

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The International Human Rights Movement: A History. By Aryeh Neier (Princeton University Press, 2013).

Discussion

1. What early developments contributed to early modern and modern concepts of human rights?
2. Is there a history of human rights before the Enlightenment?
3. How did scientific ideas impact human rights ideas?
4. What were the main gains and constraints in human rights efforts worldwide in the 19th century?
5. Was the universal declaration of human rights a Western creation? Why is this an important historical document and what was its impact on the world?
6. What separates the latter part of the contemporary period in this history of global rights?
7. How has globalization affected human rights in the contemporary period? What impact has this had on the nation and sovereignty?
8. What are the main regional differences over human rights in the contemporary world?

SECTION I Human Rights in Ancient History

Premodern limits It is arguably a mistake to think of the long stages of human history in terms of the presence or absence of rights. With partial exception of the Romans, who were particularly entranced with legal thinking, rights just did not describe the way most philosophers, or leaders, or as far as we know ordinary people thought. Attachment to property rights, for people who had access, was the most obvious exception. It was noteworthy that, although in general their status was markedly inferior to that of men, Roman women regarded as citizens did have property rights (in contrast to the earlier situation in Greece).

Rights over others We have seen that in many cases, rights often described claims one group of people had over other groups. Upper-class Chinese in the Confucian system could expect certain kinds of service and deference from the masses, though admittedly this was not explicitly framed in terms of rights. The same applied to the higher castes in India, who expected lower castes to carry out a number of jobs they found degrading. Roman law devoted great attention to the rights of owners over slaves – including children born of slaves. And while husbands did not “own” wives in most of the legal codes – which meant that at least in theory they had a few obligations – wives could be punished for a number of failings. Clearly, it is often important to distinguish between ideas of rights, which can be quite diverse, and human rights. Indeed, one of the challenges of modern human rights involves efforts to supersede older ideas of unequal group rights.

Rights and the state To the extent that any rights thinking existed, it was also rarely applied to claims against rulers or the state. The big exception here was a right attached to full Roman citizenship: the right not to be whipped or tortured as a punishment except for treason, and if accused of treason the right to be tried in Rome. Otherwise, rulers – in any of the major civilizations -- might be moral and benign, or cautious, but there was little sense of a right to restrain their actions. Of course, for most people in these agricultural societies, the state was a fairly remote entity, encountered rarely; but there were few protections in principle if it did intrude through military, fiscal or other means.

Regional differences Human rights development during the classical period does suggest one important finding – but even this must be treated with caution. The fact that developments in Greece and Rome provided at least important preliminaries to human rights approaches, in contrast to India’s caste system and the rather different approaches to social justice and stability espoused by Confucianism, legitimately suggested regional distinctions that might endure. Traditions established in some regions might be more receptive to human rights standards than those elsewhere. There is no question that, as human rights thinking emerged in more modern times in Western society, philosophers pointed back to aspects of the Roman emphasis on rule of law or Greek ideas of citizenship.

Slavery Yet making too much of this regional distinction is risky for several reasons. First, as we have seen, the Greeks and the Romans did not think in terms of human rights; their easy justification of slavery is the most blatant example, but so were the deep gender distinctions and the limitations on access to citizenship even among the nonslave population.

Geography of classical heritage Second, the classical Mediterranean heritage did not pass to Western Europe alone. It was taken up more fully, in fact, by the Byzantine Empire, and through it other parts of eastern Europe – but even a partial human rights legacy was not part of the package. The Byzantine Empire retained and further codified Roman belief in the rule of law, but it also introduced a variety of new legal tortures and a host of Christian religious restrictions, and it also subjected peasants to new community controls. The Roman legal heritage must also be evaluated in dealing with the development of Islamic law.

Collapse in the West And third, the disruptions of the Roman Empire in Western Europe, where so many political and cultural traditions collapse, cautions against assuming that this region was clearly conditioned for further human rights progress. One of the most basic institutions of the ensuing period – the institution of serfdom – thus showed scant impact of classical thinking. Serfs did have rights: most notably, they had the right not to be dispossessed by their manorial landlords if they met their obligations, which means they were not slaves. But this was a right framed amid obvious inequality. Serfs did not

have the right to leave their land. They were obliged to pay considerable rents, in kind or in money, and more important to perform labor on their lords' estates.

In other words, there is no straight line development from the classical period to more elaborate ideas of human rights, even in the regions influenced by classical Mediterranean civilization.

Study questions:

1. What kinds of rights were established by early civilizations that run counter to modern ideas of human rights?
2. What are some of the key problems in moving from relevant Greek and Roman thinking to the emergence of a fuller idea of human rights?
3. What were the differences between the rights embodied in West European serfdom, and more modern notions of human rights?

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Chapter 1: Early Law Codes

Premodern constraints Two crucial features of what are now regarded as human rights standards did not emerge, at least in any full sense, until modern times: the notion that the whole of humanity was entitled to certain common standards and the belief that, in one's own society, everyone (or at least every adult) should share in some basic rights as citizens.

Idea of humanity On the first point, there is simply no evidence that early peoples and societies had any real concept of humanity at all. Their focus was on their own small groups, relations with neighboring groups, perhaps slightly larger entities defined by shared religious beliefs. Early religions, after all, were for particular peoples, not for everyone – as was true of Judaism. One task of human rights history thus involves determining when notions of humanity did emerge, but there is no way to force them into interpretations of early societies.

Inequality On the second point, as soon as societies began to become more complex, with the advent of agriculture and the emergence of small early cities, they clearly established a number of internal divisions: between men and women, between propertied and unpropertied, often between slave and free. It would be a long time before these boundaries began to be transcended – another task for human rights history.

Fairness and law This said, there are two reasons to spend a moment on early human societies in dealing with human rights history. First, to make it clear that many early societies might treat people, or at least many people, decently without a notion of rights. And second, to acknowledge that the development of ideas of codified law – a product of several early civilizations – might generate some notion of rights (though not fully modern human rights).

Hunting and gathering On the first point: hunting and gathering societies seem to treat most members of their characteristically small groups fairly equitably. People share in work and informal governance, and while tasks are gender-specific women usually enjoy a fairly high position; and there are no other systematic social divisions. This is true today, in remaining small hunting-gathering groups, and it seems to have been true in the past. In this context, ideas of rights were arguably unnecessary. Some notions of fairness probably existed, but thinking about formal rights was not present.

Good rulers Moving into early civilizations, now supporting organized governments, many individual states or rulers might decree considerable tolerance for various religions, or seek to curb excessive punishments – this was true, for example, of the great emperor Ashoka in India (268-232 BCE). Their

principles were not necessarily expressed as rights (which admittedly meant another ruler might take a different tone), but they did limit oppression.

Revenge Early human societies may have entertained the idea of one right that is not explicitly in the modern lexicon: the right of revenge. One of the potential sources of violence among hunting and gathering groups was the impulse to take revenge if a family or group member was injured by another – this may have been one of the early causes of war. Civilizations usually sought to limit revenge-taking by setting up law courts to deal with crimes, but the notion of a right was hard to eliminate – and it still crops up in modern societies, despite more careful constraints.

Law codes On the second point: early civilizations did generate codes of law – particularly the series of societies operating in Mesopotamia, from the Sumerians onward (including the famous Code of Hammurabi, issued around 1750 BCE). And several historians have argued that these codes, in turn, provided original statements of rights. After all, law codes were intended to establish rules, with punishments for their violation: were these rules not protecting rights?

Hints of rights Thus all the early law codes outlawed murder. So were they establishing a right to life? To be sure, the murder of a slave was punished far less than that of a free man – again, there was no modern notion of citizen rights here. And there were no clear rules on when it was legitimate for the state to take a life, or to torture. On another front: A woman was allowed to leave her husband if he was not providing for her – was this a right? Of course husbands had far more rights over wives than the other way around, which complicates the picture (they had a “right” to sexual fidelity, for example; whereas male adultery was not necessarily punished even in principle).

Property Arguably the right that shines through most clearly in the early law codes – other than efforts to deter murder through clear if socially-differentiated punishments – was a right to property. The codes devoted great attention to protecting property against seizure or damage by a non-owner (except, again, possibly if the government acted). This was true in ancient Egypt as well as Mesopotamia, and follows from the general importance of landed property in agricultural societies. Of course, property rights extended no protection to those without property, or to slaves who were regarded as property.

Parents Many early codes also protected extensive rights for parents in the treatment of their children – including physical punishments and in some cases actual murder. In Jewish law for example, a parent could in principle put an extremely disobedient child to death.

Persian tolerance A few historians have claimed that the Persian Empire, particularly under Cyrus the Great, advanced human rights. After his conquests in 539 BCE Cyrus issued a “cylinder”, rediscovered in 1879, that protected inhabitants against religious persecution or forced conversions. But other historians see this interpretation as anachronistic – again, making firm decisions about rights elements in early civilizations is no easy task.

Results of codes Law codes were an important innovation in human history, a recognition that societies were becoming larger and more complex than had been the case in the long hunting and gathering period or even in early agriculture. They did establish the notion that subjects were assured certain protections, at least in principle – life and property headed the list, though they were qualified by the rights parents had over children, husbands over wives, owners over slaves.

Study questions:

1. Why might hunting and gathering societies not have needed concepts of rights?
2. What are some of the greatest problems in finding “rights” in the early law codes?
3. Why was property such an important principle in the law codes?

For further reading:

Micheline Ishay, *The History of Human Rights from Ancient Times to the Globalization Era* (University of California Press, 2004).

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Chapter 2: The Classical Civilizations

Classical civilizations The expansive civilizations that developed in China, South Asia and the Mediterranean during the final millennium BCE all established political institutions, cultures, and social systems that continued to affect these regions long after the great classical empires themselves tumbled (between about 200 and 600 CE). The traditions had varying implications when it comes to rights – though again it is vital to note that none of them developed a full concept by modern standards.

India In India, the rise and gradual elaboration of the caste system, and its relationship to the Hindu religion, seriously complicated any idea of rights. Caste membership was hereditary, and each caste had certain obligations in life. The upper castes, at least, arguably had certain rights that protected their work roles and social contacts from interference by the lower castes (though definitions of caste privilege did not use a rights language). Pretty clearly, however, the caste system complicates any claim that Indian tradition developed concepts of rights that foreshadowed current notions. To be sure, Hinduism also emphasized the sanctity of life and the importance of not taking life except in a just war. And Indian rulers might display considerable religious tolerance, particularly in interactions between Hinduism and Buddhism. But formal rights concepts were not really suggested.

China Patterns in China were more complex. Confucianism, by far the most important political philosophy, shied away from undue emphasis on laws and prescriptions: Confucius was much more comfortable urging more general standards of behavior. When a person “does nothing amiss, is respectful toward others and observant of ritual”, then he is at peace with his fellows throughout society. Confucianism placed great emphasis on the importance of wisdom and fairness, even compassion, on the part of the upper class: they should keep the interests of ordinary people in mind, in return for which the people would be properly deferential and would contribute to society through work. Solid family life, appropriate education and the inculcation of morality should anchor social order, along, normally, with obedience to authority. Confucianism placed far more emphasis on self-restraint and attention to the social good than to any idea of rights. To be sure, the Confucian approach did suggest that, if the upper classes turned selfish, they might be unseated and replaced by a more virtuous leadership group – and this could be construed as a “right” to revolt. But this was not explicitly stated, and Confucianism simply did not promote thinking in terms of rights. The importance of social order and society’s right to decide held center stage.

Citizenship Greek and Roman philosophy and political practice most clearly introduced some innovations relevant to human rights. In the Greek city states, for example, people who were citizens had rights to participate in political life (except in periods dominated by tyrants – a major exception). The association between citizenship and rights was an important step. Of course most adults were not citizens – women, foreigners, slaves; again, there is no modern idea of rights here. But the citizenship concept was an important development. Romans would maintain the concept, and Roman citizens had important rights, for example in the legal system, attached to their status.

Natural law and *ius gentium* Further, both Greek and Roman political thinkers developed the idea that human society should be organized in keeping with certain natural laws. For Aristotle a political community should reflect natural principles, though he was somewhat vague on their content. The innovation here was the implication that certain basic laws applied to the whole of humanity. Roman legal thinkers carried the idea of natural law further, seeing this as standard against which actual human laws could be measured and, in some cases, dismissed as “wicked and unjust” (as Cicero put it). As their empire expanded, Roman jurists also talked about a *ius gentium*, or law of the peoples, that might apply equally to foreigners and citizens (even though the latter also had their special legal status). Early Christian thinkers, like Tertullian, tried to use the Roman concepts to claim religious freedom from persecution, writing of “fundamental human rights” as a “privilege of nature” (though his arguments did not win imperial favor). However, while the idea of evaluating according to natural law sounded great in principle, it had little impact in fact. And the “law of the peoples” addition could actually constrain it: thus Roman jurists admitted that slavery was against the law of nature (for people be free), but the law of the peoples superseded it, establishing slavery as a common and therefore acceptable human institution.

Many applications of the *ius gentium* idea attached to definitions of property rights, available to foreigners as well as citizens.

Limitations Greek and Roman innovations unquestionably provided some basis, and language, for the emergence of human rights thinking later in European history. Again, they should not be pressed too far for the classical period itself. To take an obvious example: claims about widely applicable natural law butted against the fact the legal enslavement was more widespread in Greece and Rome than in the other classical societies. Nor did they have any measurable impact on the treatment of women, viewed as a separate legal category. Rome was in fact frequently fairly tolerant of various religions, but as their recurrent persecution of Jews and Christians demonstrated, this did not follow from any notion of rights.

Comparisons The classical period highlights significant differences in regional approaches to social and political organization, and these differences undeniably help explain why societies in the Mediterranean tradition were more likely to develop human rights concepts than their counterparts in South or East Asia. But full human rights thinking had yet to emerge anywhere; it is vital to avoid anachronistic analysis. And each of the classical traditions proved compatible with considerable social stability and prosperity, which is one reason people outside the Mediterranean tradition might prefer their own approach.

Study questions:

1. Was the Confucian approach compatible with human rights thinking?
2. What are the problems in interpreting Greek ideas of citizenship in human rights terms?
3. Does the acceptance of slavery by Greek and Roman thinkers and jurists nullify any apparent advances in thinking about rights?

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SECTION II Human Rights in the Postclassical Period

Mixed signals The postclassical centuries marked no systematic advance for ideas of human rights. The spread of the missionary religions, one of the major developments in the period, had conflicting implications. Leaders like the Prophet Muhammed correctly noted that they had improved protections for women in a number of ways, compared to prior traditions – particularly in domains such as property and marriage rights. But they had not attempted equality of rights, and the growing adoptions of earlier Middle Eastern customs, aiming at greater seclusion of women in the upper classes, arguably introduced new constraints. Even more obviously, the missionary religions introduced new motives for identifying and attacking religious deviance.

Implications of growing trade Two other major features of the postclassical period warrant some consideration in the human rights area. Transregional trade expanded, with new routes connecting various parts of Africa, Asia and Europe. Arabs took the lead in new merchant activity, and facilitated efforts to develop commercial rules that could facilitate business activity across political borders. Europeans would copy ideas of commercial law from this model. This might lead to some ideas about commercial “rights”, including claims by clusters of merchants – for example, Arab merchant colonies in some southern Chinese coastal cities – to operate by their own rules (again, a model later copied by Europeans). But connections with fuller ideas of human rights were vague at best.

Results of interregional contact The postclassical period also saw new efforts by emerging areas of civilization to imitate features of more advanced neighbors, as in Japan’s efforts to study Chinese patterns, or Russia’s eager imitation of aspects of Byzantine political and culture. Human rights did not figure in this process. Japan briefly attempted to imitate China’s centralized political structure; Russian leaders admired the Byzantine state. Though in both cases actual political patterns remained more loosely organized, the new influences did not point in a human rights direction.

Arab Golden Age At its height, in the 9th-10th centuries, the Arab Caliphate offered a model of considerable tolerance. State service was not confined to Arab Sunni Muslims. Cultural life featured vigorous philosophical debates and an abundance of secular literature and scientific research. The same latitudes describe intellectual life in Cordovan Spain, under Muslim rule. This period – the Arab Golden Age – can legitimately be cited as an example of the creative, dynamic results of intellectual diversity. But this tolerance did not generate new ideas of intellectual rights, and indeed by the end of the classical period de facto tolerance was declining. Arab culture narrowed, with greater emphasis on religious orthodoxy; and in Spain Christian “reconquerors” did not replicate the tolerant spirit of their Muslim predecessors. As before, in other words, no structural safeguards were introduced.

The Mongols For their part, at the end of the postclassical period, Mongol rulers, particularly in Central Asia and China, proved widely tolerant once they had completed their (often bloody) conquests. They used a variety of ethnic and religious groups as sources of state administrators, they encouraged the exploration of diverse ideas while also promoting trade and travel. But they had no interest in systematic measures to define and protect religious or intellectual rights; the system depended on the inclinations of individual rulers.

Feudalism and religion in the West Western Europe, or at least parts of Western Europe, might be seen as a partial exception, but this should not be pressed too far. The combination of feudalism, and the notion of feudal “rights” against a monarch, and the separate status of the Catholic Church could introduce efforts to limit the arbitrary power of political rulers, and in documents like the Magna Carta some hints of systematic rights did emerge. But these developments were tentative at best. It was in this same period, from the 12th century onward, that the Church – initially in France, then more widely – introduced the Inquisition as a means of identifying and punishing religious heresy, and while the Inquisition did develop rules of inquiry these did not include any sense of religious rights. Clearly, the postclassical period, even in Western Europe, featured mixed signals by modern human rights standards; there was no systematic progress.

Study questions:

1. Should the postclassical period be identified for distinctive human rights gains? What are the best arguments pro and con?
2. What were the implications of growing interregional contacts for human rights, during the postclassical period?
3. Was Western Europe beginning to develop a distinctive approach toward human rights?

Further reading:

James Given, *Inquisition and Medieval Society* (Cornell University Press, 2001).

Frederick Starr, *Lost Enlightenment: Central Asia's Golden Age from the Arab Conquest to Tamerlane* (Princeton University Press, 2015).

Chapter 3: The World Religions

The world religions The centuries after the fall of the great classical empires saw a substantial increase in the role of religion, particularly the great missionary religions of Buddhism, Christianity and Islam – and Islam itself was a major new entrant. All three of these religions ultimately claimed a mission to convert as many people as possible, across political and cultural boundaries, because each claimed the possession of ultimate religious truth. The resultant question, of whether the religions contributed to a preparation of human rights thinking, or added new limitations, becomes increasingly important for the centuries after 600 CE, in many parts of Asia, Europe and Africa. And it is not easy to answer.

Universality and spiritual equality The three religions introduced two innovations relevant to later thinking about human rights. First, they conveyed some active awareness of a common humanity, in the sense that they aimed at wide conversions and were not confined, as previous religions had been, to focusing on a single people. Second, they posited a basic spiritual equality among all believers. All faithful, rich or poor, male or female, were in principle endowed with a soul or a portion of the divine essence. This did not necessarily generate a sense of rights: equality might be seen more in terms of equal obligations to the divine or equal opportunities for spiritual advancement after life on earth. But the modification of the easy acceptance of inequality characteristic of all the classical civilizations could be a relevant step forward, at least in principle.

New boundaries and intolerance Against this, however, the religions introduced two new complications to any human rights approach. First, while they envisaged humanity to some extent, they also heightened the importance of new religious boundaries. The sense of shared fellowship with co-religionists also created a sense of superiority over non-believers, and this could easily lead to a belief that non-believers had inferior rights. Shading off from this, emphasis on possession of ultimate religious truth easily led to new levels of legal intolerance for members of society who were attached to a different faith. Issues of religious tolerance were not brand new in the postclassical period, but many earlier religions – and particularly polytheistic religions – had been rather flexible. Now, however, boundary lines became sharper, heightening one of the key problems modern human rights thinking would seek to attack.

Inequalities Furthermore, all three religions introduced tensions between statements of spiritual equality and ongoing divisions into unequal categories. Most obviously, all three religions excluded women from most official positions in the religion and urged obedience of wives to husbands. They introduced certain gains for women, but in some ways heightened gender inequality.

Buddhism Of the three religions, Buddhism proved the most flexible, frequently (though not invariably) coexisting with other belief systems. Not a legalistic religion, and lacking a single doctrinal statement, Buddhism's general aversion to violence could lead to new concerns about protecting human life and avoiding cruelty; these tendencies were not framed in terms of rights, but they might prove compatible with human rights thinking later on.

Christianity and Islam on tolerance Christianity and Islam, in contrast, were more legalistic. Both established firm positions on the treatment of other religions, or of sectarian divisions within the faith. Christianity was simply intolerant. People accused of heresy were subject to violent punishment. Jewish communities were sometimes allowed, but with no protections in principle and frequent subject to outright

attack. Islam was more nuanced, though there was no tolerance for polytheism, regarded (as with Christianity) as an offense against God. Christians and Jews were seen as “people of the book”, and usually allowed to worship upon payment of a special tax, though with limits on the size of religious buildings and other constraints designed to prevent Muslims from being attracted to these inferior faiths. This was a situation of partial tolerance amid legal inequality.

Punishments Both Christianity and Islam proved quite comfortable with extreme punishments for a range of immoral or antireligious behaviors, with frequent applications of physical punishments and even death. This was in a sense the dark side of religious legalism, and would prove to be a challenge for human rights efforts in more modern times.

New protections The importance of behavioral rules in other respects could involve new kinds of protection. Both Christianity and Islam, emphasizing the importance of God’s creation and the possession of souls, vigorously attacked the tradition of infanticide as a means of population control. While this did not lead to a proclamation of infant rights, the insistence had a comparable effect. Both religions, again in principle, insisted that marriage should involve the consent of both partners; here too, however, the belief was not firmly codified and, though particularly in Islam, was often ignored in fact. Both religions were uncomfortable with slaveholding, at least if the enslaved shared the true religious faith. In Islam this encouraged some de facto rules, for example banning the sale of family members of slaves who were Muslim.

Islam and rights Islam on the whole went further than Christianity in suggesting other stipulations that might be regarded as rights. Thus women were supposed to share in inheritance. They were allowed to divorce. To be sure, “rights” were not specifically referred to. And legal inequality remained clear: the property shares were less than those of men, divorce procedures were far more complicated. But Islamic legalism arguably represented some advance in principle, particularly when combined with their applicability to all believers.

Christianity and the state For its part, Christianity, if only because of its distinctive historical evolution, introduced a certain sense of division between the state and religious authority that could be relevant for human rights thinking in later periods. Islam, in contrast, emerged in close association with the state, and while it did not actually exercise a greater deal of control over rulers during the period of the Arab caliphates, it did not set boundaries. Christianity developed as a minority religion within the Roman Empire, establishing separate church institutions that were regarded as distinct from, and spiritually superior to, the institutions of the state. This division was, to be sure, significantly modified once the Roman state adopted Christianity. The Eastern Orthodox version of Christianity, predominant in the Byzantine Empire and later in Russia, did not maintain significant church-state tension. In Western Europe, however, despite frequent church-state collaboration as in the punishment of heretics, a certain division did persist. This in turn gave Christians a vantage point from which certain state actions could be judged immoral and in which the notion of limiting the state for the greater good might take shape.

Natural law Finally, both Muslim and Christian thinkers grappled with the heritage of classical Roman thinking about natural law. For Christian theologians like Thomas Aquinas (1225-74), natural law, though a product of human reason, was seen as compatible with divine law, and it provided a standard by which actual government actions might be judged unjust. “A tyrannical law, though not being according to reason, is not a law, strictly speaking.” While Aquinas normally urged political obedience, he explicitly argued that unjust laws need not be followed “if without scandal or greater damage” a person can resist.

Ambivalent heritage During the postclassical centuries, none of the expanding religions created clear impetus for advances in human rights, and in some ways they introduced new barriers while confirming a variety of legal inequalities. But they did introduce new thinking that could, in a somewhat altered environment, prove relevant to human rights ideas.

Study questions:

1. In what ways did the three major missionary religions create new human rights problems?
2. Was the idea of spiritual equality an important step toward more explicit human rights thinking?
3. Were Christians more likely than Muslim to reject the use of state power to promote religious gains?

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Carmen Meinert and Hans-Bernd Zollners, eds., *Buddhist Approaches to Human Rights: dissonances and resonances* (Transcript, 2010).

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Chapter 4: The Magna Carta and Human Rights

The issue In 1215 a quarrel between a group of English nobles and the king led to the signing of a document, the Magna Carta or Great Charter, that established at least in principle some new constraints on the actions of the monarch. King John, pursuing expensive wars in France, had attempted to levy new taxes on the nobles, and they resisted. But the document they forced the king to sign went beyond simply addressing this grievance. According to some, the result was a major step in the history of human rights in the West. Against this, the document can be interpreted mainly as an assertion of noble privilege, that only later on – after some serious human rights thinking did begin to emerge, in the 17th century – would be reevaluated as a human rights measure.

Feudalism After the fall of the Roman empire, the idea of monarchy was only gradually recovered in Western Europe. Weak central states created a situation in which landed nobles provided much of whatever order was possible in many regions. These nobles could afford some armed retainers, many of whom were given grants of land as a reward. Small networks developed, with greater lords providing some support and protection, lesser lords pledging loyalty and military service in return – the system that is known as feudalism. Lesser lords, or vassals, were frequently consulted by the lord, and from this they might contend that the lord was obligated to listen to their opinions before taking risky action. Feudal lords also provided law courts for the adjudication of disputes within the group, leading to a belief that vassals accused of some offense had a right to trial by noble peers. None of this spilled over into thinking about the bulk of the population, many of whom were held as serf, but for the nobility itself it could generate some claims about customary rights.

Feudal monarchies In France and England, though in slightly different ways, this feudal system was gradually and partially blended with somewhat stronger central monarchies. Essentially, kings acted like particularly powerful lords, recruiting a growing number of vassals many of whom were substantial lords in their own right. Alongside this system, the Catholic Church had its own claims to spiritual, and sometimes temporal power, in principle somewhat independent from the feudal kings and lords.

Magna Carta Most of the Magna Carta was devoted to clarifying the rights of the noble vassals vis-à-vis the monarch, while also assuring the independence of the Church. Thus the monarch had the right to assign children of the nobility in marriage (the Christian idea of consent was ignored), but only to people of the same social status. Women's opportunities to testify in court were limited. Property rights of Jewish moneylenders were restricted. The document stipulated that if the monarch want to levy new taxes, he must call a great council representing the nobility and higher church officials – here was an idea that, fifty years later, would lead to the calling of England's first parliament and the more general notion that the upper classes should not be taxed without their consent. Overall, the main point was a confirmation of the fact that feudal monarchy represented limited government, not arbitrary rule, and that nobles and the Church had special privileges within this system.

New rights? The fact that feudal kings were constrained was not new, but arguably the emergence of a more formal statement to this effect, and then an institution (parliament) representing the upper classes to provide some check on royal action, were important moves potentially relevant to human rights. It is worth noting that Japan, which also developed a feudal system in this period, did not produce a comparable sense of limitations on the actions of higher lords; greater emphasis was placed on unconditional loyalty. More

directly, furthermore, the Magna Carta vaguely stated that “free men” should not be punished disproportionately. Phrases referred to “liberties, rights and concessions” granted to “men in our kingdom” “in their fullness and entirety for them and their heirs...in all things and all places for ever.” Judges were instructed to know the law and “keep it well”. Mostly, the Magna Carta confirmed special privileges for the upper classes – “rights” that they alone possessed, including trial by their peers. But it did advance the idea of limits on executive power and it did suggest some vague sense that a larger number of Englishmen should be protected from arbitrary acts.

Study questions:

1. Was the development of feudalism an important step in the emergence of human rights in Western Europe?
2. What rights were protected by the Magna Carta?
3. Does the combination of feudalism and the position of the Catholic Church in the West help explain the emergence of human rights ideas? Or were further changes essential to produce any real human rights approach?

Further reading:

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SECTION III Human Rights in the Early Modern Period (1450-1750)

Global changes The early modern period saw a host of major changes in many parts of the world, but except for the tentative developments in the West – mainly in the final decades – human rights were not part of the list. Major new empires arose in the Middle East, South Asia and Russia. As before, individual monarchs might be truly tolerant – the Mughal emperor Akbar, for example, supported many religions and sought ideas from various groups – but they did not think in terms of installing rights for religious freedom, and their achievements were often transitory. Religious strife increased in the Middle East: the Ottoman Empire maintained qualified tolerance for groups like Christians and Jews, in the Islamic tradition, but sought to restrict Shia Muslims, and the Safavid Empire returned the favor against Sunnis. Japan saw an impressive expansion of education, but it was aimed at cementing loyalty to the new Tokugawa regime. Peter the Great in the Russian empire, a true reformer deeply interested in Western ideas and eager to stimulate new thinking among the elite, took no measures to recognize rights against the power of the tsarist state. Catherine the Great, in the 18th century, was even more explicitly restrictive, setting up a new censorship system against books coming in from the West.

Western power grabs Western Europe itself was responsible for a number of restrictions of human rights – beyond the demands of the absolute monarchs within Europe itself. Eager for power and profits, often bent on forcing Christianity on other people, European colonists paid scant attention to the freedoms of non-European peoples under their sway except to the extent necessary to avoid unproductive friction. In Latin America, native populations were pressed to renounce their traditional culture and accept Christianity. Compromises were made in this process; so while the Catholic Church established the Inquisition in places like Mexico it rarely called indigenous people to account. But certainly there was no principle of religious freedom. More blatant still was the enslavement of millions of Africans and tens of thousands of people in Southeast Asia, to serve European and colonial labor needs: the result in fact was an unusually cruel slave labor system that was increasingly justified in racist terms. To be sure, some Catholic officials protested, reviving earlier Christian concerns, but their voices were not heeded.

Enlightenment blinders By contemporary standards the Enlightenment itself can seem rather narrow in human rights terms. There was unquestionably a huge blindspot concerning women: while Enlightenment ideals ultimately helped generate the movement for women's rights, the connections were not made during the Enlightenment itself. Slavery is a more complex issue. Enlightenment thinkers were clear that slavery violated the "natural dignity" of man. However, they also repeated some stereotypes about Africans and, worried about reactions from a French state that was heavily invested in slavery; their complaints can be judged rather cautious.

Balance sheet Obviously, in world history terms, the early modern centuries did not constitute a breakthrough period for human rights. Even in Western Europe, religious persecutions and new state power had more impact than the new ideas did, except in a few places in the decades after 1689. Further, we have seen how difficult it proved to be to move beyond a desire to compromise among religious disputants really to establish freedom of worship. It would be seriously misleading to draw an unduly sharp distinction between the early modern West and other regions in human rights terms. And some of the hesitations in Enlightenment thinking would burden human rights efforts even beyond the period itself. Yet the examples of some actual human rights protections in England and a few other places, plus the wider advocacies of the Enlightenment, were arguably real game changers. The next world history period, that opened in the final decades of the 18th century, for the first time put human rights in the center of political debate in the West. Equally clearly, the focus on protecting the individual against state and church – the core of the Enlightenment contribution – would color human rights discussion on a global basis into the 21st century.

Study questions:

1. What were some of the major ways human rights deteriorated in the early modern world, and why?
2. Why did Enlightenment thinkers ignore certain human rights categories now seen as fundamental?
3. Was the Western human rights record unusually bad in the early modern period?

Further reading:

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Peter N. Stearns, *World Past to World Present* (Routledge, 2021).

Chapter 5: Developments in 17th-Century Europe

Reformation The Protestant Reformation in Europe probably proved to be the most important single source of more definite human rights ideas – at least within key parts of Western Europe. This was not the intent of the religious reformers, nor did the results begin to emerge until the 17th century. Initial Reformers were just as intent as their Catholic opponents in insisting on their monopoly of Christian truth, and just as vicious in attacking and punishing religious dissent. To be sure, in attacking the sacramental power of the priesthood, Protestants did promote a greater sense of individual contact with God and encouraged wider literacy. But they hedged this approach with vigorous promotion of memorized catechisms plus long sermons meant to guide the faithful of their reading of the Bible. The goal was not religious diversity.

Religious conflict But religious diversity was in fact the result, particularly in areas like Germany, the Low Countries, Britain and (for a time) France. Initially, this helped trigger the brutal religious wars of the 16th and early 17th century, in which millions were killed. But this conflict ultimately led to second thoughts about insistence on a single religious orthodoxy, and this in turn opened the way for revival and utilization of other traditions – such as the idea of natural law. Religious controversy inflamed attacks on religious rivals, but it also generated fatigue with conflict and a search for compromise.

New laws and treaties Initial steps occurred both in France and Germany. In Germany the Peace of Augsburg, 1555, attempted a settlement by allowing regional princes to choose either Catholicism or Lutheranism. This was not a gesture toward religious liberty; within a region, there were no rights of dissent. But it did suggest some movement away from defense of a single orthodoxy. In France, an Edict of 1562 sanctioned both Catholicism and Calvinist Protestantism, the first recognition of two Christian religions in a single country. It was opposed by Protestants and Catholics alike – again, there was no sense yet of religious freedom – but it was an interesting move. Later still, the Treaty of Westphalia (1648), the settlement of the brutal Thirty Years War in Germany, allowed German regions to select Catholicism, Lutheranism or Calvinism. Individuals dissenting from the choice was supposed to be free to settle elsewhere. This was a huge step in removing religion as a cause of war in Europe, but again it did not establish durable new rights *within* a region (and even this measure was vigorously opposed by the Papacy). Change came hard.

Ideas of tolerance and natural law At the intellectual level, however, these developments did promote new thinking, from the later 16th century onward. In France Michel de Montaigne, though a loyal Catholic, turned against bigotry on all sides, urging accommodations that would reduce cruelty. Natural law thinking revived, particularly in Britain and the Netherlands (which was becoming de facto a center of religious tolerance, even extended to Jews). The Dutch lawyer Hugo Grotius argued that there was a natural law, common to all peoples and reflecting human reason, against which manmade law should be judged. "Anything that is unjust, which is repugnant to the nature of society, established among rational creatures" should be rejected. Grotius talked of various rights – to property, to parents' control over their children or masters over servants, but he was also interested in rights people had among equals, with phrases like "a state is a perfect body of free men, united together in order to enjoy common rights and advantages" He also urged that people should have rights even in wartime, against excessive violence or rape (which "should not go unpunished in war any more than in peace") – a strikingly advanced rights argument.

Ongoing debate All of this was still open to massive debate. The 17th century was also the time, in Europe, when many kings talked about their "divine right" to rule; the rise of absolute monarchy saw the reduction of many earlier liberties, and even the decline of parliaments in countries like France. Other intellectuals, like Thomas Hobbes, urged that governments had the right to impose anything they chose in the interests of stability. And even truly revolutionary measures at the end of the century, such as the English Bill of Rights (1689) still held back from a right to religious liberty, granting political privileges to members of the Church of England over other Protestants and withholding tolerance from Catholics and Jews.

Study questions:

1. What did the religious wars suggest about the status of human rights in European thought and politics?
2. Why did religious conflict ultimately generate new thinking about rights in Europe? How important were earlier European traditions?
3. What were the differences between tolerance and rights, in the context of 17th-century Europe?

Further reading:

Malcolm Smith, *Montaigne and Religious Freedom* (Droz, 1991).

Derek Croxton and Anuschka Tischer, *The Peace of Westphalia* (Greenwood, 2002).

Knud Haakonssen, *Natural Law and Moral Philosophy: from Grotius to the Scottish Enlightenment* (Cambridge University Press, 1996).

Chapter 6: The Birth of Modern Human Rights: the Glorious Revolution and the Enlightenment

General factors for change A number of developments in Western Europe, from the late 17th century onward, created a more favorable climate for discussions of people's rights. The breakthrough discoveries of the Scientific Revolution prompted new interest in debating established ideas and new support for freedom from orthodoxy. Rapidly-growing literacy – by the 18th century about 60% of men in England were literate, for example – promoted more diverse expressions of ideas; something like what is now called “public opinion” developed, and this could encourage resistance to heavy-handed repression. On another front, new economic opportunities encouraged some young people to resist traditional parental controls. Thus courts of law, as in Switzerland, began to rule that, if a young person insisted that she could never love a spouse designated by her parents, the arranged marriage was off. In other words, in a period of rapid economic and social change, significant cultural adjustments were occurred, and new interest in rights, of various sorts, was part of the process. None of this made human rights advances inevitable, but the context was changing.

Key causes However, it was the ongoing process of reacting to religious diversity and conflict; of building on earlier efforts to curb the power of monarchs; and of advancing the implications of beliefs in natural law that created the clearest innovations: a decisive, if still limited, statement of rights in British constitutional development; and a growing chorus of intellectual voices eager to define rights and insist on their fulfillment.

The English Bill of Rights After several decades of unrest, involving religious struggles and also conflict between parliamentary advocates and backers of the monarchy, the English factions reached agreement in 1688-89, including an unprecedented Bill of Rights. The bulk of the Bill focused on assuring clearer rights for parliament vis-à-vis the royal executive, including regular meetings. But the document also banned “illegal and cruel punishments” and defended the “right” of subjects to petition the king on any matter, without fear of retribution. The new king promised more broadly to preserve the kingdom “from any violation” of their rights, and there was also reference to “the true, ancient and indubitable rights and liberties of the people of this kingdom”. As noted in the previous chapter, limited religious tolerance was also part of the package. This was, by modern human rights standards, a rather vague set of references; specific rights were not clearly enumerated except for the important reference to punishments. And the rights involved were English, not for humanity more generally – a huge constraint. But there was also no question that the document represented major innovation, and it also helped stimulate the wider philosophical discussion.

John Locke Writing the context of the English settlement, John Locke developed a political theory that argued for a basic human legal equality: before governments existed, people shared equal “advantages”; it followed that a legitimate government must respect basic rights to life, liberty and property – including the right to rebel against any regime that violated these fundamentals. Locke did not clearly enumerate the rights governments must respected, beyond property and preservation of life, but he clearly insisted that the state existed “to preserve and enlarge Freedom”, not to restrict it.

Enlightenment Relying heavily on Locke and the English example, a host of 18th century thinkers elaborated on the necessity of human freedom, but also developed a more specific list of rights to be

sustained. Freedom of speech was high on the list, strongly advocated by widely-popular figures such as Voltaire. Religious freedom was closely linked: as Adam Smith noted, religious zeal could be a real social danger when “only one sect” is tolerated in society. Unduly harsh punishment was the third category, defined particularly by the Italian jurist Cesare Beccaria in 1766, who included state executions among the violations of basic, inalienable human rights. This was a Western-wide movement, with active contributions from Germany as well as France, Italy, Britain and elsewhere, and with an eager audience in places like the British colonies in North America.

Impact Until the 1770s – the first edict actually defending full freedom of speech in practice was issued by a Danish regent in 1770 – unprecedented philosophical defense of rights remained largely theoretical. Many European monarchs, including some willing to consider reforms in other domains, were not interested in restricting their own power. Britain remained a partial exception, of course, thanks to the earlier settlement. Several North American colonies, headed by Rhode Island, installed considerable religious freedom, though this was not yet a uniform commitment. At the same time, Enlightenment thinkers were not just spinning out theories in the abstract; they worked hard to popularize their views. Pamphlets reached a considerable public; growing venues such as coffee houses provided opportunities for excited discussion of new ideas.

Study questions:

1. How did Locke’s arguments advance ideas of human rights? How did his approach differ from the principles of the English Bill of Rights?
2. What were the three main rights advocated by Enlightenment thinkers, and why were they so high on the list (as opposed to other possible options)?
3. How did Locke’s ideas, and those of the Enlightenment, build on older natural law arguments?

Further reading:

Lynn Hunt, *Inventing Human Rights* (W.W. Norton, 2008).

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SECTION IV The Long Nineteenth Century and Human Rights

Gains The century and a half after the 1770s clearly constituted a foundational period for human rights in world history. Many key rights were explicitly enshrined in Western constitutions, and there were significant changes outside the West as well. Liberal political movements, not only in Europe but in Latin America, provided ongoing impetus for key human rights; and there were strong individual voices raised in other societies as well, for example around issues such as the treatment of women. Also important was the tendency to expand the rights domain beyond the areas emphasized in the Atlantic revolutions. The tentative addition of women's rights and voting rights were key examples, again particularly in the West. The rise of mass education was an intriguing change from a rights standpoint, extending the power of the state over what had been seen as a family domain and, along with labor laws, hinting at the possibility of children's rights. (A book on children's rights actually appeared in England in the 1790s, but it did not clearly define the rights involved.)

Limitations The most pervasive complication, during the same period, was the difficulty, for Western leaders, of really thinking in terms of *human* rights, given the power disparities and deep prejudices concerning societies in Asia and Africa. The blinders could affect the West itself. Thus the Chinese Exclusion Acts in the United States, from the 1880s onward, explicitly distinguished between Chinese and other immigrants, denying the former equal access. Racism also contributed to neglect of the rights of many former slaves, despite the resounding (and important) attack on slavery itself. Religion was another complication, particularly with religions – like official Catholicism – that did not themselves acknowledge equal rights. Thus both France and Germany struggled with debates over whether defense of rights required the state to oversee relations with the Church or whether a hands-off religious liberty was the best approach. Similar dilemmas occurred for liberals in Mexico and other parts of Latin America.

Industrial revolution As noted, the industrial revolution would raise huge rights issues. Increasingly visible abuses prompted limitations of property rights in the form of safety regulations and inspections, legal restrictions on the hours of work and other areas. The 1880s, initially in Germany, saw the advent of new types of social insurance; rights language was not yet used for innovations like accident or old age insurance, but a basis was being established. The whole issue of social rights in industrial societies was mainly left for later discussion, in the 20th century, but parts of the agenda were becoming clear.

Nationality rights and “crimes against humanity” Another issue taking shape in the later 19th century, but unresolved, involved defining and protecting the rights of various ethnic groups at a time of growing nationalism and, in some regions, new assertions of government authority. Persecution of minorities in Russia was a case in point. Growing Western attention was paid to problems in the Ottoman Empire, where the government was accused of mistreating minorities such as Bulgarians and Armenians. Stories in the Western press detailed (and sometimes exaggerated) stories of torture and slaughter. In the 1870s for example the Ottomans were accused of killing 30,000 Bulgarians (the actual figure was around 4000), in an attempt to put down unrest. British politicians, pressed by public opinion, began protesting in terms invoking “the moral sense of humanity at large”. A former prime minister intoned that the Ottomans had inflicted “deep and lasting crimes against humanity”. Somewhat similar invocations were directed against the spate of lynchings of African Americans and Mexican Americans in the United States. The idea of a new kind of “world opinion” centered around the protection of minority and other rights around the globe was an interesting innovation that would be carried further in the later 20th century. Coming from centers like Britain, deeply involved in imperialist excesses, the problem of hypocrisy was also clearly in play.

Global gaps Developments in the long 19th century obviously differentiated the West from many other societies (including Western-held colonies), with Latin American patterns hovering somewhat in between. Human rights issues were more clearly identified and defined in the West than elsewhere, and at the same time claims of differentiation helped support Western beliefs in the superiority of their own civilization – an outlook that was not always healthy for global human rights, particularly given Western insistence on domination in its own colonies. The 19th-century legacy for regional interactions around human rights was deeply complex.

Study questions:

1. What was the relationship of the idea of “crimes against humanity” to the global human rights situation by the end of the 19th century?
2. What was the human rights problem posed by Catholicism? To what extent was it handled differently in the United States than in countries like France and Germany?
3. Why and how did human rights claims, once established, tend to expand into additional areas?
4. Which was more important in 19th-century world history: the advance of rights claims and actions, or the advance of racism?

Further reading:

Micheline Ishay, ed., *The Human Rights Reader* (Taylor and Francis, 2007).

Peter N. Stearns, *Human Rights in World History* (Routledge, 2012).

Chapter 7: Age of Atlantic Revolutions

The Great Revolutions The two events that most clearly moved human rights from philosophical discussion to political reality – or at least a degree of political reality – were the American and French revolutions of the late 18th century. Both revolutions explicitly used rights language and – while not yet adding “human” rights – suggested that the innovations they sought were applicable to humanity, and not just the societies in question. Thus American revolutionaries in 1776 claimed as a “self-evident” truth that “all men are created equal” and that “they are endowed with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness.”

The Rights The French Revolution of 1789 proclaimed the “Rights of Man and the Citizen” as one of the first steps in building a new society. The list was ambitious: equality under the law – no more aristocratic privilege; freedom of action so long as others were not damaged; rules over arrests and punishments with no penalty beyond what was “absolutely and obviously necessary”. Freedom of speech, including religious opinions, was hailed as “one of the most precious of the rights of man”. The French also insisted on the importance of citizenship for all, which some observers see as bedrock feature of human rights, parallel to equality under the law. The American Bill of Rights, added to the initial constitution at the insistence of many revolutionary leaders, similarly included freedoms of religion, speech, the press and peaceable assembly. Cruel and unusual punishments were banned. These revolutionary moves were without precedent.

Causes Pretty obviously, Enlightenment thinking about rights, and its popularization, had provided language for many people with grievances against the existing regime. Americans, annoyed by new British taxes on the colonies, thus talked of rights to participate in decisions of this sort. Many French had come to believe that they were seriously oppressed by both Church and monarchy as well as the legal privileges of the aristocracy. One of the early moves as the revolution took hold in Paris was the popular storming of the Bastille, a royal fort and prison in the center of town that was believed to hold large numbers of political prisoners. In fact there were only seven, some of them imprisoned for debt, but the principle was clear.

Complexities The new regimes did not entirely follow their own principles. Most blatantly the ringing American statements for “all men” coexisted with the continuation of slavery, though some northern states began to work toward abolition. Native Americans were also verbally attacked in the founding documents. France tightened family laws in ways that imposed some new limitations on women. The French revolution turned against many political opponents, inflicting harsh punishments. While the American system did introduce extensive religious freedom, French leaders, concerned about Catholic power, were reluctant to let go: a battle over religion and state would continue intermittently until the 20th century. “Rights” in the American version included the right to bear arms, which many Americans would come to cherish as least as dearly as freedom of speech; but this would raise issues later on. The United States also, in the 1790s, concerned about foreign political radicalism passed the “Alien and Sedition Acts” which banned “seditious or malicious writing”, in flagrant defiance of the Bill of Rights. France, pushing for individual liberties, abolished the guild system, and long outlawed the formation of labor groups—here was an interesting tension between new rights and collective protections that would affect many modern

societies. In other words, the birth of modern human rights included several deep inconsistencies and also some special features that were not unambiguous.

Impacts American and French precedents help explain why many later societies, engaged in their own revolutions or establishing new nations, assumed the importance of declaring their own commitments to rights. In some cases the gestures were not followed through in law, but overall the notion that a modern society needed a commitment to rights was a significant feature of modern world history. Developments in Haiti and then the independence movements in Latin America provided quick illustrations of the power of this revolutionary example. In Western Europe itself, French armies imported some of the new language of rights to neighboring countries. To be sure, conservative reaction after the defeat of Napoleon in 1815 deliberately pushed back against freedom of speech and assembly, and tried to bolster religious authority. But pressure for the basic rights quickly resumed.

Revolution of 1830 and other extensions Thus in France, when a restored monarchy sought to heighten the power of the Catholic Church by passing new laws against sacrilege, and then threatened new censorship controls over the press, the moves directly triggered a new rising, in July, 1830. The even more elaborate series of Western revolutions that fanned out in 1848, though they had more complicated causes and goals, included efforts not only in France but in Italy and Germany to install freedoms of press and assembly. Another focus was added: efforts to extend freedom of speech to university campuses, against periodic government efforts to intervene against political opponents. Religious liberty also won new attention, as the British for example finally extended tolerance to Catholics and later for Jews. The momentum for expanding and extending rights was considerable.

Conservative evolution Over time, many European conservatives became accustomed to at least versions of the revolutionary rights. To be sure, the leadership of the Catholic Church held out. In 1864 the Pope issued a “Syllabus of Errors”, that pointedly included the idea that “every man is free to embrace and profess....that religion he shall consider true.” But conservatives in other sectors, as in Germany, after the immediate revolutionary dust settled, began to accept a degree of freedom in speech, press and religion. A striking development (given European traditions) was the widespread emancipation of the Jews, giving them legal equality with other citizens.

Rights to vote The list of human rights established in the age of Atlantic revolutions did not clearly include the right to vote – even aside from continuing limitations on slaves and women. The French revolution briefly granted universal male suffrage, but then pulled back. Many rights leaders were hesitant to give a vote to the masses, believing that possession of some property was a precondition for responsible citizenship. It took a few decades for most northern states in the United States to extend the vote. Britain expanded voting in three steps – embracing most (male) members of the middle class in 1832, most urban workers in 1863, but almost all men in general only in the 1880s. France returned to universal male suffrage with the revolution of 1848. Here, in other words, was a “right” that was gaining ground, certainly advocated by many radical leaders, but whose advent was surprisingly gradual.

Study questions:

1. What institutions were seen as the main threats to rights, during the revolutionary era?
2. What important rights were not included in the revolutionary lists?
3. Why was freedom of speech/press so strongly emphasized in the revolutionary era and beyond? Why was it a clearer “right” for the revolutionaries than the right to vote was?

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Chapter 8 Abolitionism and human rights

Advent of abolitionism Along with the revolutions, and linked to them in some ways, the rise of systematic anti-slavery sentiment was the second way that human rights thinking began to be transferred from the intellectual sphere to actual political and social change. Concern about slavery was not brand new, of course. Both Christianity and Islam had raised objections based on problems of holding co-religionists as property; some Catholic officials even worked hard to resist enslavement in the Americas. There was not a human rights argument directly, but it could serve as a base. However, neither religion, in the end, insisted that slavery be terminated; there was no massive religious objection to the massive enslavement of Africans from the 16th century onward.

Sources of new thinking From the mid-18th century, however, in various parts of Western Europe and, more hesitantly, in some of the North American colonies, two cultural impulses sponsored what turned out to be an unprecedented effort to end formal slavery – first in the Americas, then more globally. Minority strands of Protestant Christianity, and particularly the rise of Quaker and Methodist sects, emphasized the universality of their moral code and provided much of the new passion for the anti-slavery movement. At the same time, Enlightenment ideas about basic human equality and the importance of freedom provided new perspective as well. Even “Enlightened” slave owners like Thomas Jefferson saw the institution as an “abomination” – though this did not impel them to action. Finally, voices from some former slaves themselves (and from some former slave traders), dramatizing the horrors of the Middle Passage as well as plantation labor, added to the chorus.

The movement What was particularly striking, however, was the way these ideas translated into action. Periodically from the mid-18th century onward (the movement was sporadic), massive petition drives to end slavery or the slave trade won tens of thousands of signatures in British cities. (In 1788 for example 10,000 people in the city of Manchester alone, a fifth of the total population signed on.) Organizations formed, like the British Abolition Society (1787) – arguably the first human rights organizations in history (though the term was not used), contending that slavery was “repugnant to the principles of justice and humanity”. Lectures as well as petition drives, plays that dramatized the conditions of enslaved labor, specialty subgroups like youth against slavery – many of the modern techniques of rousing public opinion against injustice were brought into play. And the movement was transnational, prompting campaigns and action in Denmark, France and elsewhere. By the early 19th century international congresses (drawing mainly from Western Europe, the United States, and Canada) were appealing to “friends of the slave of every nation and every clime”. It is not farfetched to see this as the first global human rights movement, and again the London Anti-Slavery Society (though now renamed) survives to the present day, fighting against labor abuses worldwide.

Haiti The unprecedented Haitian revolution, which began in 1791 and ended with independence and the abolition of slavery in 1804, was another demonstration of the power and transportability of the new rights thinking. Violent protest against slavery was not new in Haiti, but it was given new sanction and direction by Enlightenment attacks such as those of Guillaume Raynal. Toussaint Louverture, a free Black familiar with Enlightenment ideas, took the lead in combining slave resistance with the new political concepts, sponsoring a series of constitutions that proclaimed a variety of liberal ideas including abolition. One result was a belated recognition in revolutionary France that slavery was against the principles of the Declaration of the Rights of Man: “until now our decrees of liberty have been selfish...but today we proclaim it to the universe...” (1793) (though the French later backtracked, until 1848). Haiti demonstrated how new thinking about rights transformed an older tradition of slave resistance, giving it new direction and wider appeal.

Later developments Ongoing efforts to rouse sympathies and dramatize the gap between slavery (or harsh serfdom) and modern ideals progressively roused opinion in other countries. Russian nobles opposed to serfdom argued that the system was inefficient but also morally repugnant, and their twin arguments finally gained ground. Brazilian abolitionists later in the century used rights arguments, now contending that enlightened world opinion had turned against slavery. Gradually (though not fully until the 20th century) the same argument about living up to contemporary world opinion would move rulers in the Middle Eastern Gulf States, slavery’s last formal bastion.

Debates Many explanations of the unprecedented move against forced labor single out the role of new ideas, and their popularization, as the most important single source of the decline of the most brutal and general forms of forced labor. Other factors contributed, in some cases including slave or serf resistance or beliefs that slavery was incompatible with modern economic progress. There were blindspots in the new thinking. Many abolitionists turned out not to care very much what happened to former slaves once the institution was abolished, and many coercive labor practices were soon installed, along with political repression. Other types of forced labor occurred in parts of Africa under imperialism (though true to form, some human rights protest responded, as in attacking labor practices in the Belgian Congo). It has also been pointed out the anti-slavery was occurring just as industrialization was taking hold in places like Britain, and that opinion was to some extent distracted from attention to rights abuses in the factories by the dramatic appeals for attention overseas. Overall assessment of the rise of abolitionism is complex, but attention to the importance of rights arguments is not misplaced.

Study questions:

1. Is a growing sense of human rights the best explanation for the rise of abolitionism?
2. What is the role of the Haitian revolution in the history of human rights?
3. To what extent did the end of slavery and serfdom lead to new abuses, and why were these harder to address in human rights terms?

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Chapter 9 Latin America

Putting Latin America in the picture Later chapters will show how Latin Americans have frequently been in the forefront of modern human rights campaigns – sometimes ahead of the West, not to mention the rest of the world. But Latin America is often neglected in human rights history. Partly this is because Latin American nations have not wielded the military or economic clout of their Western counterparts. Partly it is because of the undeniable oscillations of Latin American politics, with frequent periods of strong man rule (*caudillismo*) and repression (but many Western countries have not been exempt here). Human rights have been, and are, a battleground in Latin American history. This said, it is important to recognize that, in the wake of Western developments in the 18th century, human rights thinking was implanted early as an element in the modern Latin American political tradition.

The Background There is no question that much of the Latin American human rights tradition originated with the familiarity of many independence leaders with Enlightenment thought, particularly in France (though the North American precedent had some role as well). The French Declaration of the Rights of Man and the Citizen was translated into Spanish in the 1790s (the translator was thrown into jail by the colonial authorities). Many Latin Americans began to express their “yearning” (as one Venezuelan put it) for this kind of freedom. However, Latin American leaders were also influenced by the older Catholic tradition of natural law, which was taught in universities in the region until the Spanish tried to clamp down. As a result, the Latin American approach to human rights may have differed from the French in three ways. First, it was less systematically anti-government, more sympathetic to positive government action as well as protection of individuals against abuse. Second, it was less anti-Catholic, willing to see the state enforce appropriate Catholic rules (a feature still visible today, for example in resistance to gay rights legislation in otherwise liberal countries). To be sure, Catholic support for authoritarian rule pushed many Latin American liberals to urge reduction of the Church role, for example in education, but some distinctions may have lingered. Finally, the Latin American human rights tradition was less broadly based, more confined to the leadership of people of European origin who, in fact, carried through the independence movements without wide popular support.

Bolivar and independence. Simon Bolivar, the leading independence figure, was thoroughly versed in French Enlightenment authors, and particularly Rousseau. Bolivar believed deeply in individual liberty – and was profoundly opposed to slavery, a “shameless violation of human dignity”. Like the North American revolutionary leaders, Bolivar believed that people possessed certain inalienable rights; as the Colombian constitution of 1812 put it, “the right of man in society are legal equality and liberty, security and property.” However, Bolivar placed more emphasis on the duties of citizens, and less simply on protecting their rights, than was true of the United States Bill of Rights. And, faced with the huge difficulties of governance after independence was won, he reluctantly relaxed protection of rights like freedom of the press in favor of efforts at stability. At the same time it is important to recognize that all the constitutions issued in the wake of independence in the early 19th century – including Colombia – carefully included a declaration of rights. Thus Mexico not only banned slavery but also torture, while stipulating freedom of the press. In Argentina San Martin, proclaiming that “liberals of the world are brothers everywhere”, instituted press freedom and emancipation for the children of slaves, though more than Bolivar he came to find strong government essential.

Juarez Benito Juarez, who governed Mexico at several points in the 1850s and 1860s, is another figure who maintained the Latin American human rights tradition. He sponsored a law in 1855 that established equality under the law and restricted the powers of the Catholic Church and the military. His success was short-lived, as foreign intervention and then, in the 1870s, the establishment of another period of strongman rule created the context for the Mexican revolution of 1910.

The Mexican Revolution The constitution of 1917 set forth a clear list of citizen rights – specifically now called human rights (*derechos humanos y sus garantias*, First Title, chapter 1). Particularly noteworthy were efforts to limit the role of the Catholic Church in education and other matters – arguably, significantly limiting Catholic liberty because of beliefs that the Church would seek to undermine a liberal, secular state; however, the restrictions were not always enforced subsequently. Even more important was the addition of social rights to the usual list – here, Mexico set a model for later constitutions like that (1918) of the Soviet Union. Social rights included rights to education, support for land reform, and measures seeking to protect labor in areas such as hours of work, social insurance, and safety. (“The Nation shall have at all times the right to impose on private property such limitations as the public good demands.”) Definitions of rights were expanding, though it is also true that the establishment of one-party rule from the 1920s to the 1990s significantly limited political rights in fact. Again, the Latin American human rights tradition was real but undeniably checkered into recent decades.

Study questions:

1. Why was French example on the whole more relevant to Latin American rights development than examples from the United States?
2. What were some distinctive features of human rights development in 19th-century Latin America?
3. In what ways did the Mexican revolution and its aftermath represent a new turn in human rights?

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Chapter 10 Liberalism and industrialization

Liberalism and complications The development of a defined liberal movement in Western Europe – one of the main political parties in Britain became known as the Liberal Party, but there were comparable groupings in other countries – built around defining and defending major rights, particularly against state and, often, church. Similar currents developed in the British settler societies (Australia, Canada, the United States, and New Zealand), again under various names (and there were implications as well in Latin America). All of this built on the Enlightenment tradition, though liberal intellectuals extended key

arguments. Liberalism was complicated, however, by the simultaneous rise of nationalism, but even more by the implications of the industrial revolution which in some respects seriously cut into the independence of growing numbers of workers. This resulted in something of a political juggling act that would carry beyond the 19th century.

19th-century liberalism Western liberalism in this period had somewhat different meanings from what “liberal” has come to mean in the contemporary United States, though there are connections. Nineteenth-century liberals believed strongly in freedoms of the press, speech and assembly; they defended freedom of religion, and some were quite secular; they insisted on constitutional protections and a strong parliament capable of checking the power of the executive, though they might or might not favor republics over monarchies. They also believed in economic rights, beginning with private property, and sought to limit government interference in the economy. A point too often neglected is liberals’ vigorous advocacy of reducing the severity of punishments for crimes; under liberal inspiration, the number of crimes subject to the death penalty was dramatically reduced. A few places, like the state of Michigan in 1846, even eliminated the death penalty altogether.

John Stuart Mill Mill’s book, *On Liberty* (1858) is perhaps the most characteristic and eloquent statement of 19th-century liberal principles, the book moves away from natural rights arguments in favor of emphasizing the utility of allowing individuals as much freedom from interference as possible, constrained only by the need to make sure their actions do not infringe on the liberty of others (a slippery criterion in practice). “The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.” While Mill devoted some attention to economic rights, he was more interested in freedoms of thoughts and expression, vital to a society’s creativity as well as to individual opportunity. Truth can come out only through free discussion, including the presentation of erroneous ideas. He extended his discussion to issues of divorce (this should be a right, despite the importance of marriage) and suicide (societies can step in to control an individual bent on ending his life). Urging the importance of education, Mill argued against state-run systems: competition was vital to freedom.

Liberals and democracy Mill and many other liberals worried greatly about the tyranny of the majority, as pressures for voting rights expanded. This reflected concern that majorities could neglect vital rights, and also a lingering suspicion about the political capabilities of ordinary people. Gradually, however, most Western liberals increasingly accepted the idea of wide suffrage. Granting the suffrage of former enslaved Americans, after the Civil War, was an important extension of the idea of a right to vote (even though it was widely undermined in practice). French liberalism also came to terms with democratic suffrage, in the 1870s.

Liberals and nationalism Nationalism as a European political movement was long twinned with liberalism, with no apparent conflict. Indeed, arguing for national unity or independence seemed fully compatible with other ideas about rights. This relationship would continue in many of the rights statements of the 20th century. However, at some points liberals were forced to choose between their priorities and nationalist opportunities. Thus in Germany in the 1860s many liberals accepted the role of authoritarian Prussia in unifying Germany. More generally, nationalist enthusiasm for a powerful nation state might clash with liberalism in many ways. Even more obviously, as in World War I, nationalist goals of victory justified massive trampling of human rights, as freedoms of press and speech were dramatically curtailed. The 19th century did toss up one additional effort at reconciliation: the Geneva conventions, launched in the 1860s, sought to establish rights for the wounded and prisoners of war, and many nationalists (in Europe and ultimately elsewhere) signed on to this advance.

The industrial revolution and rights Without much question, the industrial revolution, launched in the 19th century West, was the most important development in the whole period. Technically it had little to do with rights, aside from the property rights asserted by eager industrialists. In fact, however, industrialization dramatically curtailed the freedoms of many workers, subjecting them to harsh shop discipline, the authority of foremen or other intermediaries, and a variety of fines for misbehavior. Arguably in the long run, by improving prosperity, industrialization might further the enjoyment of rights, but in its initial decades at least it ran counter to liberal professions. Hesitantly, liberals sought to apply rights thinking to at least a few areas of concern.

Child labor Use of children at work was not new, but the conditions of factory labor, and supervision by strangers, raised a host of new concerns. This was a difficult issue for liberals to confront. On the one hand were the rights not only of factory owners but also of parents, who were traditionally free to decide what their children should be doing. On the other hand, many liberals realized that children's freedom and prospects were seriously undermined, and that education – another liberal goal – was severely hampered. Gradually, most liberals began to accept the need for regulating children's hours of work – the argument was quickly extended to women as well – and even requiring some schooling at least for those employed in factories. The notion of a right to education was not yet articulated, but liberals moved in this direction.

Unions Liberals initially opposed unions of workers, as inimical to the rights of employers and contrary to the emphasis on individual freedom of action. Unions were outlawed in early industrialization in Britain, France and elsewhere. Gradually, however, the imbalance of power and the resultant restrictions on worker rights became increasingly apparent, and legal rights were extended. Compromise here, however, was somewhat more tentative than in the case of children and education.

Conclusion Liberalism was a massive political force through the 19th century, though not uncontested. Its power in Western Europe began to wane only at the end of the century, when socialist political forces, more attuned to the looming "social questions" of industrial society, began to gain ground at liberal expense. Liberal principles did not die, and many reformist socialists defended them in fact. Further, liberalism itself had evolved during the century, as adjustments to democracy and certain kinds of social reform suggest. This was a process that would continue in the West into the 20th century, even as formal liberal parties were somewhat eclipsed.

Study questions:

1. What were the differences between liberal human rights arguments and more traditional justifications?
2. Has the rise of nationalism furthered or hampered human rights, everything considered?
3. Has the industrial revolution, overall, furthered or hampered human rights? What was the liberal approach to reconciling the two forces?

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Chapter 11 Feminism and rights

Early Connections Modern feminism was essentially born through linking the human rights arguments of the Enlightenment, the revolutionary era, and then liberalism, to conditions of women. In turn, though gradually, feminism in 19th-century Western Europe and the United States began to expand the definition of human rights, though the full connections awaited the 20th century. Early voices began the process. Thus in France Olympe de Gouges, in 1791, matched the claims of the Revolution in writing the *Declaration of the Rights of Woman and the Citizen*: "Woman is born free and lives equal to man in her rights" – attacking "perpetual male tyranny". Across, the Channel Mary Wollstonecraft wrote a similar declaration in her *Vindication of the Rights of Women* (1792), appealing for both equal rights and equal education. These arguments made little headway at the time, but they set the scene quite clearly.

Organized feminism The steady expansion of human rights efforts, through additional revolutions and the campaign against slavery, helped galvanize a wider campaign to extend the same principles to women. In the United States a meeting in Seneca Falls, New York, in 1848, was effectively the nation's first women's rights gathering, and it was followed by additional programs. Seneca Falls was noteworthy for including the right to vote in the list of goals, after considerable debate.

Dual arguments The basic push for rights at the core of feminism explicitly extended the now-familiar arguments to the domain of gender: if equal rights was the goal, women must be included. There was a secondary argument however, based on the special notions of women's qualities that developed in places like Britain and the United States during 19th century. Women were endowed with particular qualities: they were naturally loving, beginning with their maternal qualities; they were naturally more sexually moral and more peaceful than men. Thus, obviously, they deserved at least equal rights in the family domain. Allowing the vote might not only be fair to women, but would advance society through the special virtues of female leadership. Both lines of argument supported rights, and they could be used in combination; but they had slightly different implications.

Goals By the later 19th century, as feminist movements matured, the general push for rights focused on an array of specific targets. Property rights formed one category. In many Western countries laws increasingly recognized women's control over property, independent of fathers or husbands; an example was the Married Women's Property Act in Britain. Equal rights in divorce gained attention, and by the later 19th century, in a dramatic reversal of tradition, women began commonly win disputed cases of custody for children – on the assumption that mothers were the better natural parents. Education was another target. Most Western countries were now providing elementary education for girls as well as boys, but entry to professional schools like law or medicine required an additional push – another common gain during the second half of the 19th century. Sexual exploitation was another target, with many efforts to shield women from prostitution and the sex trade, plus some attempts to mandate health protections for prostitutes themselves.

Voting rights By the end of the century suffrage had become clearly the premier women's rights goal, justified by the general claim for legal equality and a potential anchor as well for other gains. A number of male liberals, including John Stuart Mill, joined feminists in this effort, though there was deep resistance as well. The territory of Wyoming first granted the vote, in 1869; New Zealand was the first nation to do so, in 1893 (though without yet allowing female candidates); Finland authorized both votes and candidacies in 1901. After additional agitation, countries like Britain, the United States and Germany followed suit soon after World War I. Here was a twin gain: for women's rights, and for the growing acknowledgement that access to voting was now part of the standard rights list.

International efforts Through the 19th century the women's rights push was disproportionately Western (and, interestingly, within the West particularly centered in countries with Protestant rather than Catholic backgrounds). From the 1860s, however, many rights groups began to seek international membership. Global conferences became common by the 1880s, with appeals to "women of the world", in the name of the "great ideals of civilization and progress". Actual representation from places like China and Iran was still at token levels. Western feminists were frequently scornful of their sisters in other, more "backward", countries. But the idea that women's rights was a global cause would gain momentum, and would serve as a prime example of the extension of human rights thinking to many regions of the world.

Study questions:

1. Why was there any issue over whether the idea of rights should apply to women as well as men?
2. How did some feminists develop two lines of argument about their entitlement to basic rights?
3. What were the main targets of 19th-century gender rights efforts; what potential goals received less attention?

Further reading:

Patricia Grimshaw, Katie Holmes, and Marilyn Lake, eds., *Women's Rights and Human Rights: international historical perspectives* (Palgrave MacMillan, 2001).

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Chapter 12 Imperialism and human rights

Basic problem Without much question the clearest human rights problem of the 19th century stemmed from Western imperialism. Of course traditionalist opposition to various rights was an ongoing barrier – in the West as well as other regions. But the expansion of imperialism introduced new attacks on what Western leaders were proclaiming as human rights. The new restrictions were problems in themselves, but they also deeply complicated efforts to persuade people in most of the world's regions that Western human rights professions were worth serious attention. Western intruders seemed to be doing the opposite of what global rights advocates were proclaiming as human fundamentals.

Causes There were two basic reasons for the disjuncture. Most fundamentally – and this had been true of colonialism in the early modern centuries – many European leaders simply assumed that their power advantage, in weaponry and now in industrial economies, authorized them to do whatever they wanted to seize and maintain power and profits in many regions of the world. Rights issues were simply irrelevant. (The same held true in the United States westward expansion.) But many other participants, more actively aware of rights arguments at home, found them inapplicable to the rest of the world because of deficiencies in basic civilization, often combined (in Western thinking) with racial inferiority. Colonies new and old needed enlightened guidance, not rights for which they were unprepared. Some division of opinion applied here: between those who thought that later on, after a period of Western tutoring, civilization levels would rise, and those who thought the Western “white man’s burden” was a permanent requirement. Nothing illustrated the second group of apologists more vividly than John Stuart Mill’s clear belief that Indians were “unfit” for anything more than a “limited and qualified freedom” (Mill was a longtime employee of the British East India Company).

Violations To gain and maintain empires, European and United States regimes jailed opposition leaders (often with no trial and often with torture) and censored the press – well into the 20th century. They intimidated workers, often through torture, to accept dangerous jobs in mining – as in the Belgian Congo. They committed genocide, as the Germans did in Southeast Africa (now Namibia) in the first decade of the 20th century, when they exiled tribes that had protested their rule into the desert, where an estimated 80,000 died. On a more prosaic scale, imperialist regimes introduced punitive measures that reformers were busily undoing back home. Whipping, or flogging, was a prime example. Here was a traditional punishment now widely regarded as “cruel and unusual” in the 19th-century West, phased out of the British army for example (in 1878) . But it was standard procedure in Africa, to punish disobedient troops or even (ironically) people accused of beating animals. In 1888 for example a British officer ordered up to 72 strokes on Hausa policemen guilty of insubordination to another White officer. Another important category, though not technically in the colonies, highlights the huge violations of children’s and family rights in the schools forced on indigenous children in the United States, Canada and Australia.

Homosexuals Westerners had a low opinion of the sexual habits of many colonial people (sometimes goaded by colonial wives who worried about “temptations” their husband-officials might face) Many regimes introduced new rules over female sexual behavior and other public activities (in some cases, even shopkeeping). The most dramatic new regulatory efforts applied to homosexuality, which Europeans claimed to find rampant in many colonial traditions. Under this spur, many colonies passed new laws decreeing severe punishment for those caught in homosexual behaviors. In India, for example, in 1861 the British simply applied their own penal code, which stipulated up to a life imprisonment for sodomy – in a country that had long been tolerant of homosexuality behaviors and also “two spirit” categories.

Neglect European overlords also simply ignored a number of local practices that clearly contravened their own rights values – mainly because they feared rousing local opposition. Thus the Indian caste system was untouched, if anything deepened, with a few exceptions (such as railway carriages). The traditional practice of female circumcision in parts of northeastern Africa, now clearly designated a rights violation, was tolerated by British and French colonial officials until after World War II.

Exceptions The picture is not monochromatic. Colonial regimes in Africa seriously worked to ban the internal slave trade, as in a mutual agreement at an 1885 conference in Berlin. Formal slavery did decline. In India, British officials moved to outlaw the practice of *sati*, in which in some regions Hindu widows threw themselves on the funeral pyres of their recently-dead husbands, on grounds that,

husbandless, they had nothing left to live for. Several Muslim leaders had earlier decried the practice as well. British efforts were joined by Indian reformers from the early 19th century onward, an interesting case of transmission of a new rights standard to domestic advocates. There were some efforts to create other protections for widows. Furthermore, over time, some of the clearest gaps between domestic rights standards and colonial conditions were addressed. (Even John Stuart Mill, in later life, had partial second thoughts about imperial rule in India.) Thus British military officials began to set clear limits on flogging of colonial troops and finally phased this out altogether. And of course a number of children from the colonies, sent to school in the West, were able to gain a new understanding of human rights which they would bring home with them, usually beginning with the right to win liberation from imperial control.

Overall assessment There must be some tension in applying contemporary human rights standards to the past – as earlier chapters have suggested. What many people today see as moral imperatives simply were not applicable in many societies until very recently. What is striking about 19th-century imperialism however – in some contrast to earlier colonial regimes – is their blatant contradiction or neglect of rights that were increasingly, even loudly, accepted back home. This too can be explained, but it was a huge anomaly that would complicate reactions to human rights in many regions not only through the imperialist era but well beyond. Obviously this is a vast topic, much debated, with a massive contemporary aftermath as people, in the West and elsewhere, struggle to define imperialist abuses and even make amends -- while at least a few continue to argue that on balance imperialism helped spread human rights awareness.

Study questions:

1. Why did many liberals support the suppression of rights in the colonies?
2. What kinds of rights were most at risk under colonial governments?
3. What kinds of rights were (somewhat) advanced by imperialist regimes?
4. How much does the imperialist period help explain regional differences over human rights today?

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Chapter 13 Reform movements: Russia, Ottoman Empire, China, Japan

The issue Four major societies – aside from the Americas – remained technically free from Western imperialism in the long 19th century, though under great pressure from military and economic interference. All four, recognizing the peril, introduced some reforms, designed to promote greater economic and political strength at home and, to an extent, to appease Western critics. On the whole, human rights were not a major, durable part of the agenda, as opposed to other types of change. But there were some exceptions, and the patterns of change and continuity had implications for rights issues not only at the time, but later on.

Russia: the advent of reform Russian leaders wanted nothing to do with the growing Western interest in rights, from the 18th century until the later 19th – though many Russian intellectuals and reformers were attracted. Liberal movements were brutally repressed – for example, the Decembrist revolt of 1825 -- with many leaders exiled or imprisoned. Between 1861 and the 1880s, however, the tsarist government sponsored a number of significant reforms, beginning with the abolition of serfdom. Given Russia's long cultural connections with the West, it was not surprising that some rights implications were included in the reform effort. Notably, for example, new law codes dramatically reduced the severity of punishments for many crimes, cutting back on impositions of the death penalty. At one point, over 150 crimes had been subject to capital punishment, but by the 1890s even execution ns for murder were becoming infrequent. Equality under the law and a right to a jury trial was stipulated in 1864. The abolition of serfdom loosened restrictions on the peasant majority, but in this case redemption payment obligations continued to

constrain many villagers; while the Emancipation document promise “full rights” to former serfs over time, in the short run the property rights of the nobility gained precedence. The contrast with the more complete abolition of serfdom in the West, in the revolutionary era, was interesting. And, even at the height of the reform movement, some of the more individualistic rights favored by liberals, such as freedom of speech, were not emphasized.

Conservative reaction In 1881 the reformist tsar was killed by an anarchist bomb. The reform era ended. Censorship was extended, and the secret police moved against any sign of political opposition. Religious tolerance was replaced by official backing for Orthodox Christianity and minorities, such as Jews, were widely persecuted. At the same time, a conservative ideology expanded emphasizing the superiority of Russia’s community values and political obedience over the chaotic individualism and political instability of the West (a rhetoric that would in some ways return in the early 21st century). Rights principles were not entirely forgotten: a 1906 measure established equality of access to the civil service, ending noble privilege, referring to “equal rights” in this domain. Russian feminists used the same rights language as their Western sisters. But the idea of individual rights against the state did not take deep root in the Russian experience.

Ottoman Empire Ottoman rulers launched the Tanzimat reform process in 1838, and it would extend into the 1870s. Several reforms reflected Western influence but also the rights implications of traditional Islamic thought (with explicit references to the Qur’an). New laws protected all subjects against arbitrary or secret punishments, guaranteeing public trials. Equal access to state appointments was assured, and religious minorities received additional assurances. In 1856 the government even issued a Bill of Rights, abolishing all distinctions that might make any religious or linguistic group “inferior to another class”. “All forms of Religion are and shall be freely professed...No one shall be compelled to change their religion.” Freedom to travel and rights to privacy were more widely respected. There was real change. The result did not improve political stability, however, and in 1878 the regime pulled back, nullifying the constitution and particularly attacking freedom of the press. As in Russia, a fearful government embraced repression over maintenance of political rights.

China China in the late 19th century was in great disarray, and the government was too ineffective really to launch a reform process of any sort. A number of Chinese students did begin to study in the West, however, and brought back ideas of rights that would feed into the aspirations of the new regime established in the revolution of 1911. Western influence plus the rise of reform sentiment also began to move against the practice of footbinding, urging the importance of better treatment of women; here too, some idea of new rights began to be introduced.

Japan Under the Meiji regime after 1868, Japan launched the most extensive reform process of all, outside the West. Feudalism was abolished, universal education installed, industrial development successfully promoted. Specific attention to rights, however, was more limited. New civil and judicial codes did clarify right to property and judicial procedures for the first time. The Constitution of 1889 stipulated freedom of movement; freedom from entry into one’s house; privacy of correspondence; and freedom of speech, assembly and association as “qualified rights” – the emperor retained ultimate power and his government could introduce limitations. Religious freedom, however, was unqualified, as were equality of access to public appointments and rights to trial. Overall, the Meiji regime emphasized obligations and loyalty to nation and emperor over attention to the individual. In other interesting move, to please Western opinion the Japanese briefly outlawed homosexuality (against the national tradition of greater tolerance), but this was quickly pulled back.

Conclusion Clearly, the new thirst for reform included some major gains for certain rights outside the Western and imperialist orbit. Equally clearly, however, rights advances in many key areas were tentative, and emphasis on state authority limited acceptance of some of the key political rights most cherished by Western liberals. It is important not to overdo: rights of free speech and press were often limited in the West as well. In Britain and the United States, for example, Victorian sexual culture justified extensive censorship of novels and plays, and political interference with the press was hardly eliminated. Still, it is fair to note that the liberal rights agenda was less clearly articulated outside the West, even in nations or periods otherwise committed to reform.

Study questions:

1. What were the key similarities between Ottoman and Russian approaches to rights?
2. Why did Japan, during the Meiji era, avoid the kind of authoritarian backlash that affected other reform movements?
3. Is it accurate to draw a firm line between Western rights approaches in the 19th century, and the approaches established in Asia and Eastern Europe?

Further reading:

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SECTION V The Contemporary Period and Human Rights

Complexities: oscillations Any history of human rights on a global scale over the past century must deal with two complexities. The first is chronological. There is simply no straight line trend from 1914 to the present. Human rights has experienced arguably three doldrums periods: interwar; Cold War 1950s; and 21st century. Even if one starts the story in 1945, when an upward trend becomes more obvious, the setback decades must be taken into account.

Complexities: regions World historians love to seek regional balance, to make it clear that no major regional tradition is better than another. And for some topics this is both true and important. But not in the contemporary history of human rights. There is simply no getting around the ongoing Western role in defining and pushing much of the agenda – the rollout of gay rights is just a recent example, though a somewhat ironic one since the West had led in intolerance until recent decades. The results of the Western position can certainly be debated, including the relationship between human rights efforts and the imperialist legacy. It is clear that Latin America deserves special note as well, despite periodic hiccups (which applies to the West as well). Latin American voices have had global resonance in this area. Sub-Saharan Africa is more complicated, partly because of the size and diversity of the region. But African human rights advocacy has also carried beyond the borders of the subcontinent, most obviously with the example and tactics of Nelson Mandela but also in the commitment of the Organization of African States and more recently the African Union, which was revamped in large part because of a desire to promote human rights more effectively. India's role, both before and after independence, has also had resonance, which makes the current setbacks all the more troubling. And Japan has had an important role to play: its early stance against racism was ahead of its time, and its contributions since 1945 have been vital.

Complexities: regions Some regions, in contrast, have simply been more complicated, and Russia, China, and the Middle East head the list. It is vital to remember the contributions of communism to broadening the human rights discussion. The notion of a distinctive East Asian approach also deserves attention. And the ongoing debates over an Islamic approach to human rights are important, and may bear further results in the future; nor, one must hasten to add, is there a single Islamic position on the subject. But these are also regions that, through a combination of earlier cultural traditions and more recent political trends, have been less receptive to significant chunks of the human rights agenda. Both Russia and China today rather tout their anti-human rights stance, less interested in defending a distinctive regional definition than in arguing that authoritarianism better suits human needs than rights of any sort. This may be temporary: it is important not to assume that regional positions are fixed in stone, for that has not in fact been the contemporary experience. It may reflect a Western-biased evaluation. But there is no question that regional variations have complicated generalizations about human rights throughout the contemporary period – and earlier as well.

Main points Complexities granted, two main points stick out about the contemporary history of human rights, though particularly from the 1940s onward. First, human rights have become an important part of political and even diplomatic conversations almost everywhere, in ways that was simply not the case earlier. References may sometimes be hollow or hypocritical. They may reflect important disagreements about what the rights are – as the endless debate about rights in the American abortion controversy demonstrates. But they are part of the picture: more people think in terms of rights than ever before. Second, though there were hints of this before the 20th century, the list of rights tends to expand, once the principle of rights is granted in the first place. The list at Vienna in 1993 is huge compared to the ideas that were floating around after World War I – not to mention the Enlightenment-fueled definitions of the 19th century. Pervasiveness in discourse and steady expansion are arguably valid conclusions despite qualification for region and decade – in fact, they form the reason that a history of the 20th-21st century would be incomplete without serious attention to the evolution of rights.

Results Has the increased attention to human rights done much good? This is a tougher one, because it depends on point of view but also varied data. Women's rights have surely increased, despite the remaining problems and regional variations. Use of the death penalty has declined, and perhaps torture has too (a tougher one). Basic rights for children, starting with education, are more widely respected. But deciding whether speech and the press have become freer is a tougher call, because so many barriers have been thrown up at certain times and in certain places, and now the potential for technological big-

brothering casts a shadow as well. Will human rights win out against facial recognition software? Religious freedom has expanded – except where it hasn't. The global decline of extreme poverty (at least until the pandemic) is surely liberating. The point is clear: human rights discourse and advocacy improved more rapidly than our ability to calculate the consequences, particularly given regional differences and countercurrents. Arguably the overall ledger is favorable: there is some connection between the establishment of rights as a common topic and measurable results. But there is no simple formula.

Study questions:

1. Do regional diversities make it impossible to generalize about human rights trends in the contemporary period?
2. Has the expansion of the list of key human rights resulted in an expansion of respect for the rights involved? What are some good examples?

On balance, did the real world history of human rights really begin in 1945?

Chapter 14: League of Nations, and the Interwar Period

Overview The period between 1914 and 1945 saw a massive deterioration in human rights in many parts of the world, and a surprisingly weak response from potential defenders. Indeed, the shocking abuses and the absence of effective countermeasures help explain the major burst of activity after 1945, designed to establish clearer global principles.

League of Nations The League was the most hopeful experiment of the period, but it was famously beset with many limitations – and in the human rights field, it never ventured a clear statement. The League's Covenant, adopted in 1919, referred to a "fair and humane" treatment of labor, to a "just treatment" of "natives" in colonial territories, and to efforts to prevent traffic in women and children. The League also worked to extend the suppression of slavery. Several smaller countries had to promise to protect minorities or in the case of Ethiopia press further against slavery – an interesting expansion of the idea that an international body could impose rights provisions as a condition of membership, though enforcement was lax. There was however no detailed specification of rights. The American President Woodrow Wilson proposed a defense of religious freedom, but when in response Japanese representatives also urged a clearer stance against racism, both Britain and the United States objected and nothing was done. During the 1920s the International Labor Office, a League affiliate, did work to advance standards limiting child labor and restricting excessive hours of work; and there was formal acknowledgement of the efforts of several feminist organizations to advance women's rights. During the 1930s the League denounced Japanese aggression against China, Italy's invasion of Ethiopia, and some of the abuses associated with the Spanish Civil War, but to no avail; and again the rights standards involved were not fully clarified. The international community was not prepared to move forward.

Abuses The list here is long. Western nations had largely suspended human rights protections during the war, limiting freedom of speech and press, arresting dissenters (including conscientious objectors, many of whom were brutally treated in countries like Britain). The 1930s featured unprecedented bombing attacks against civilians (in China and Spain); suppression of press and assembly in the fascist countries, plus significant curtailment of religious freedom; the beginnings of Nazi oppression of Jews and other minorities, later capped by the Holocaust genocide. Fascist doctrine specifically took aim at individual rights, boosting the authority of Nation and Leader. Protest against these moves was vague and ineffective. In the West, liberal parties were in decline; many conservatives were more concerned about what they saw as a threat from socialism and communism than with defense of rights; the isolationist United States turned away from active concern with rights outside its borders. Meanwhile, Western imperialist powers, faced with growing nationalist resistance, increased the rate of arrests of dissidents, while Japan committed a variety of abuses in Korea and other parts of its new empire.

More positive developments Postwar extension of voting rights to women in Britain, Germany, the United States and elsewhere advanced women's claims to greater legal equality. The new nation of Turkey included religious freedom in its reform vision, and extended equality of the law to women – including the right to vote; these were major developments in a predominantly Muslim nation. Criminal law was revised to reduce the severity of punishments. But rights such as freedom of the press that might

challenge state authority were not included, and in order to reduce religious influence certain kinds of clothing were banned – another interesting example of the tension between reform and individual rights. Turkey and other countries, in extending education, also suggested new attention to certain kinds of rights for children. A number of nationalist movements in key colonies also urged human rights as part of their resistance to Western imperialism. In India Mahatma Gandhi, after a considerable debate because of the importance of the caste system in the Hindu tradition, came out against castes, urging instead equality under the law – an important foretaste of India’s commitment to human rights after independence in 1947.

Additional voices As early as 1917 a Chilean lawyer, Alejandro Alvarez, helped create a new American Institute of International Law, which included a new section on “international rights of the individual”. In 1937 a new “League for the Rights of Man” was formed in Latin America, now becoming the source of several important initiatives. A number of scholars from various countries promoted a series of international conferences on rights issues, pressing the League to commit more clearly to a rights agenda. In 1929 a new “Declaration of the International Rights of Man” urged that the “conscience of the civilized world” demands recognition “for the individual’s rights to be preserved from all infringement on the part of the state”. Early in the 1930s both Poland and Haiti urged the League to take action to preserve the rights of minorities, such as Germany’s Jews – though nothing happened not only because of German opposition but also because other countries worried about minority action in their own nations. Here again, promising new recognition of international rights commitments was being hampered by rights hesitations within individual countries even in the West. Yet as war loomed, Western leaders began belatedly to find a clearer voice. In 1941 President Franklin Roosevelt of the United States insisted that “Freedom means the supremacy of human rights everywhere,” promising support for those who struggled in defense of rights. His list of rights was also interesting: “preservation of civil liberties for all”, including freedom of speech and religion; but also “freedom from want” – as the idea of rights was beginning extend more clearly into the social arena.

Early in World War II As the United States joined Britain in the war effort, preserving “human rights and justice” became an allied mantra. As early as 1941 Western experts urged that a new commitment to the “international rights of man” was essential in a new kind of world organization. The Czech president in exile talked similarly of the “rights of man and international law” in his resistance to the Nazi takeover of his country. A host of groups insisted that “protection of human rights should be part of the war aims of the Allied Powers”. Obviously, the hideous track record of the interwar years plus the various weaknesses of the rights initiatives that had occurred were motivating a wide desire for a new beginning.

Study questions:

1. What were the main reasons that Western countries were so hesitant about rights between the wars?
2. How did the League of Nations seek to promote rights? What were the limitations of its approach?
3. In what ways did the interwar period serve as a seedbed for the burst of rights initiatives after World War II?

Further reading:

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Chapter 15: Communist revolutions and Human Rights

Overview To many, particularly in the West, the communist regimes that took shape at various points in the 20th century, beginning with the Russian Revolution of 1917, are best known for repression of human rights. There is little question that Soviet regimes particularly from Stalin to the mid-1980s, and more recently Chinese communism, have worked to repress political dissent. Press freedoms have been curtailed amid the dominance of state- or party-controlled media. Many dissidents have been taken prisoner. Religious freedoms have been curtailed, though not always entirely eliminated. These are important points, that still shape deep differences in regional approaches to human rights. However, the communist story deserves attention for other reasons as well. First, despite repression, communist constitutions often purported to respect human rights – an interesting concession if mainly rhetorically. Second, despite repression, regimes have varied, with some interesting experimental interludes. Third and most important, beginning with the Soviets, communists have sought to add to the list of human rights, emphasizing collective social and economic gains. Their redefinitions have had real impact on global definitions over time.

Constitutions Soviet and Chinese communist constitutions often paid lip service to the kinds of human rights valued in the West – including the right to vote, quickly extended to women. Thus the Chinese periodically referred to “freedom of speech”. Soviet documents stipulated “freedom of conscience”, interestingly indicating that this included the right not to believe in any religion (which was of course the stance preferred by the Communist Party). Freedom of inquiry was assured to scientists and artists. People should also have the right to criticize the government, and “persecution for criticism is prohibited”. Most documents stayed away from freedom of the press, which was interesting. Particularly under the Soviets and also in Mao’s China, freedom of movement outside the country was strictly regulated. And all individual liberties proclaimed in principle were in fact subject to the effective political monopoly of the Communist Party. This aspect of communist rule can easily be dismissed as callous hypocrisy, given the police controls actually established. Still, it was interesting that there was a felt need at least to acknowledge these rights on paper.

Respite Government and party control varied in severity. In Russia, the early 1920s were marked by an atmosphere of experimentation, with much discussion of new kinds of marriage arrangements and other innovations designed to spur greater freedom in some respects. On a more limited basis, controls softened somewhat after Stalin’s death in 1953, and even more obviously in the transitional period under Gorbachev in the late 1980s. Similarly, the atmosphere in China varied at times, with some limited relaxation after the Cultural Revolution and then again early in the 21st century, when some observers thought that, informally, greater latitude was developing for freedom of thought. Finally, the promise of some intellectual freedom for scientists was not entirely hollow, given the enthusiasm for scientific research and opportunities for interaction with colleagues from other parts of the world. And it is important to note the insistence, in communist law, on legal equality, with greater attention to equality of rights and opportunities for women. Indeed, during the interwar decades Soviets boasted their superiority over Western gender systems, where women were still pushed toward domestic roles.

Social rights The most important contribution of communism in practice to global human rights discussion involved the emphasis on a variety of what might be called collective rights. From the mid-1920s onward Soviet constitutions made it clear that the most important rights were those involved in ending economic injustice – “the economic exploitation of man by man”. Documents emphasized the goal of “free development” for each individual, but this was to be achieved far less by individual political or intellectual rights, more by rights to participation in collective welfare. Thus constitutions proclaimed rights to access to leisure, health care and education. Similarly in China after Mao, and particularly amid the industrial successes of the early 21st century, opportunities to rise out of poverty and share in collective economic advance were the key goals. Some of this alternative rhetoric was hollow, and of course many Westerners prefer to linger over the absence of assurances about the more classic individual rights. But this alternative vision was not entirely divorced from reality, and it clearly put pressure even on Western leaders to expand their definition of rights. This would show for example in the increasing inclusion, even in Western statements, of a “right to education”, or in Franklin Roosevelt’s dramatic commitment to “freedom from want”.

Conclusion Communist regimes must surely be known primarily for their establishment of new levels of authoritarianism and repression of political dissent. However, the principle of rights was not systematically attacked – in contrast to fascism – and innovations in social rights were significant, with global implications as well.

Study questions:

1. Why did communist regimes not simply ignore human rights statements completely?
2. How did the idea of social rights compare to Western rights priorities?
3. How could Soviet leaders argue they were more committed to women's rights than their Western counterparts?

Further reading:

Albert Szymanski, *Human rights: the USA and USSR compared* (Lawrence and Hill, 1984).

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Chapter 16: United Nations and the Charter

United Nations From the standpoint of international law, there is no question that the Universal Declaration of Human Rights, issued in 1948, was a milestone. It was prepared, hesitantly, by the formation of the United Nations three years before. Many smaller countries, including several from Latin America plus many independence leaders in India and Africa, had pressed for a human rights statement as part of the UN charter, but three great powers hesitated: the Soviets because of their forced labor camps, the United States because of racial segregation, Britain because of repressions in the colonies. The United Nations did commit to "promoting respect for human rights and fundamental freedoms for all without distinctions as to race, sex, language, or religion". But the rights themselves were not specified, and member nations were not held to any specific pledges. Nevertheless, a basic international pledge was on the books for the first time.

Preparatory work Over the next few years an international committee, including Eleanor Roosevelt (the president's widow) from the United States and legal experts from Lebanon, China and France, along with philosophical advice from others including India's Gandhi, sought to develop specifics for a further statement. Disagreements surfaced, around the West's emphasis on individual and political rights versus attention to economic rights and duties. But a compromise of sorts was achieved, with Americans accepting some socioeconomic clauses, while in the final vote the Soviet bloc and Saudi Arabia simply abstained.

The Declaration Passed as a nonbinding resolution of the UN General Assembly, the document referred to the "barbarous acts" of the interwar period as it outlawed slavery, torture and degrading punishment, plus arbitrary arrest or imprisonment. Freedom of thoughts, expression, religion and assembly completed the classic agenda. Emphasis on the need for consent to marriage sought to deal with an important gender rights issue. The social domain remained slightly vague, but it included references to a decent living standard, social security, equal pay for equal work, fair job conditions and the right to join unions. The right to education included free and compulsory elementary schooling. The Charter was intended as "a common standard of achievement for all peoples and all nations", and did indeed become a foundation for further human rights work by the United Nations and other international organizations as well.

Extensions During the 1950s the UN elaborated its right commitments by setting up a Human Rights Commission to promote and monitor rights. While there was no clear enforcement mechanism, the existence of a standing body, later supplemented by the appointment of a UN commissioner, went well beyond anything attempted by the League. A new Inter-American organization was set up in the same period, and in 1950 a group of European states launched a Convention for the Protection of Human Rights and Fundamental Freedoms. Language from the Charter was also incorporated into a host of constitutions by the new nations emerging from the process of decolonization. Thus the Philippines, in

1946, pledged due process of law, freedom of press and religion, basic social services and gender equality. India's commitment to freedom of religion was a huge step after the Hindu-Muslim conflicts in 1947, and the abolition of castes, including untouchability, was a historic change. Many African states pledged respect for "inalienable rights". Respect for rights was also built into the new constitutions developed in Japan and West Germany. And the list could be easily expanded. Obviously some of this turned out to be hollow rhetoric, but the documents did provide legal bases for action in some cases; and the widespread recognition of rights across regional lines was clearly unprecedented.

Cold War Growing Cold War tensions set the global human rights movement back, particularly during the 1950s – on both sides. Communist states tightened their police apparatus, and forcibly put down major protests in places like Hungary. In the United States, wildly exaggerated attacks on suspect communists led to increased repression, losses of jobs, and some unwarranted arrests.

1960s In the 1960s some relaxation in Cold War hostilities plus the emergence of new issues such as the apartheid system in South Africa prompted the United Nations to take new steps on behalf of rights. (It is also important to note that the Catholic Church at this point committed to acceptance of freedom of religion, in its Vatican II council.) Definitions of rights were reaffirmed, now including the right to vote; an important new stipulation insisted that the death penalty be imposed only for the most serious crimes. The UN began requiring member states to report annually on how human rights were being implemented. Regional groups also became more active, in the Americas and in Europe, while in 1986 the Organization of African States issued a Charter of Human and People's Rights. After much debate, in 1967 the UN vowed to study "situations which reveal a consistent pattern of violations of human rights" – including South African apartheid. Here was a very specific move, which contributed, along with internal protest and other international pressure, to the collapse of the apartheid system. In the 1990s and the emergence of fervent South African commitment to human rights across racial lines. In all this the number of nations contributing to pressures to enforce human rights was broadening: the West still (including Canada, Australia, New Zealand), and Latin America; but now also Japan (pressed domestically to put economic pressure on South Africa for example), and many African states.

Women's rights United Nations rights commitments, finally, included a growing range of activity to promote rights for women. "Year of the Woman" conferences were sponsored every decade after 1965, strategically located in places like Mexico and Kenya where activities would help promote local groups.

Conclusion The Charter and its aftermath obviously invite skeptical scrutiny. The bustle of activity had little direct effect on the Soviet bloc, at least until the 1980s, or the Middle East. Many violations occurred in other areas as well, and enforcement mechanisms were vague at best. Any evaluation must be on a half-empty, half-full basis. The fact remains that the flurry of proclamations, constitutional laws, and international agitation was unprecedented, marking a clear new step in world human rights history.

Study questions:

1. Why did the great powers not take the lead in new international human rights moves?
2. What were the main differences between UN and earlier League approaches to human rights?
3. Why did apartheid draw more, and more effective, international disapproval than the police states of the communist bloc?

Further reading:

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Chapter 17: International Human Rights Organizations

Rise of INGOs The growth of International Nongovernmental Organizations after the 1950s was a striking feature of modern globalization. Few had existed before. The London Anti-slavery Society was a vital prototype, to be sure, and its successor continued to work against forced labor. Several of the new organizations responded more fully to the new global human rights mantra, reflecting the spirit that had activated the 1948 Declaration but working as well for its more complete implementation.

Amnesty International Founded in 1961 in the sake of the human rights challenges of the 1950s, Amnesty International plausibly claimed to be the second oldest global human rights group, but with a wider rights agenda from the outset. The movement was launched in Britain by a socialist lawyer who had converted to Catholicism, a Quaker, and other like-minded colleagues. The mission was inspired by the constant outpouring of news about torture, political arrests, violations of freedom of speech and religion. The group believed it could channel the “feelings of disgust all over the world” into a common program of action. Amnesty deliberately targeted abuses in the West as well as communist and “third world” countries. From the outset it relied on public opinion, with membership recruited around the world. (Chapters in Western and Latin American countries were particularly strong.) By 1977 when the group won the Nobel Peace Prize it had publicized over 15,000 political prisoners and had secured the release of half of them.

Expansion As with other aspects of the rights movement, Amnesty steadily expanded its brief, particularly when the Cold War wound down. Opposition to administration of the death penalty in the United States drew growing attention, as did labor abuses in Africa. After 2000 the group emphasized crimes against women, from wartime rape to domestic abuse. At its best, Amnesty could move fast. In 1981 for example, news of a political arrest in Argentina sparked an immediate petition drive, winning release by an embarrassed government within a week. Not infrequently, Amnesty persuaded other entities, for example European governments, to add their pressure as well. To be sure, there were criticisms: even supporters worried that the case-by-case petition approach, while successful in many individual instances, left larger patterns unresolved.

Human Rights Watch – and others Cold War evolution led to the creation of a second major group in the 1970s. A 1975 Western-Soviet meeting led to a mutual pledge to observe human rights, though this was immediately subject to two varying interpretations. Human Rights Watch formed in the United States to monitor Soviet behavior and publicize abuses. But the group sought wide international membership and quickly turned its attention to other issues, such as political oppression in Central America. The commitment to “international standards of human rights” that should “apply to all people equally” mirrored the sentiment of Amnesty International; it also led to a similar kind of expanded range, with growing attention to the death penalty, women’s rights and so on. Additional groups also worked the terrain, from a Christian organization, to rights initiatives by physicians and by jurists.

Success stories Probably the groups’ greatest impact occurred in Latin America, as part of the turn against authoritarian and military governments in the 1970s and 1980s. Abuses by regimes such as Pinochet in Chile were widely publicized and increasingly resented, as were policies in Argentina to “disappear” opponents of the regime. But there was also headway in Central America, where campaigns helped free a number of imprisoned labor leaders through a combination of local informants and supporters plus the power of wider international publicity. At the same time, the rights INGOs played an important role in coordinating opposition to South African apartheid. On a more individual basis, a number of women sentenced to death for adultery, in places like Nigeria, were also rescued. International pressure, from the European Union and the papacy as well as the rights groups, may have contributed to the growing hostility to the death penalty in the United States in the early 21st century. The whole phenomenon was an intriguing example of how widely-distributed support for human rights helped fuel a global movement, which bolstered local awareness in turn. At its best, the INGOs, along with initiatives by government groups and the UN, began to make human rights a major diplomatic consideration, arguably a major change.

Limitations The INGOs worked best in regions where there was some commitment to rights in the first place and/or where governments depended to some degree on Western, or Japanese, favor – which

might be dented by bad publicity. They had little impact where well-established governments simply refused to admit international embarrassment, frequently expelling the groups or not permitting them to operate in the first place – thus denying necessary information. This limitation, admittedly fairly obvious, would prove particularly telling after 2000, amid a renewed surge of authoritarian governments.

Study questions:

1. What were the main methods of the new INGOs?
2. Why did the INGO movement also generate resistance?
3. Did the INGOs work to maintain Western global dominance?

Further reading:

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Chapter 18: Civil Rights Movements and the Expansion of Rights

The 1960s This decade of protest was not primarily centered on human rights concerns: student grievances and the war in Vietnam drew the greatest attention. But new rights targets and supporters bubbled up as well: in Northern Ireland for example, new campaigns for equal rights of Catholics drew growing attention. Agitation against rigid Soviet controls affected parts of Eastern Europe, particularly Czechoslovakia. Efforts to secure greater rights for the aboriginal peoples took shape in Australia. But the most substantial movement, prepared by prior agitation and discussion, saw African Americans and their supporters targeted blatant repression and rights violations in the United States, particularly the South. This civil rights movement, in turn, launched both a recurrent campaign against racial discrimination and other protests against legal and social inequalities.

Civil Rights movement The movement in the United States in the 1960s, headed by figures like Dr. Martin Luther King, focused strongly on public discrimination: all peoples should have equal rights to public seating, shared public swimming pools and fountains, comparable schools. Massive protests were necessary to move this agenda forward, but there was clearly progress. It included reaffirmation of voting rights, with new laws curbing interference in the Southern states. The result hardly won equality: economic disparities and massive differentials in imprisonment marked continued rights issues. Many Whites felt that “their” rights – more properly, privileges – were under threat. But there was change.

“Second wave” feminism Partly in the wake of the civil rights success, but with independent roots as well, a new feminist movement took shape, particularly in Western countries. Many key rights, of course, had already been won. But feminism now sought a more systematic equality with men. This meant more attention to economic rights, including demands for equal pay for equal work. It meant efforts to gain entry to “male” fields such as athletics and the military. Over time, significant successes were registered, and pressure began to develop in other countries as well – for example, against male violence (a key issue in South Asia). (United Nations women’s rights efforts played an ongoing role as well.) New problems resulted as well. Feminism now sought equality for women in sexuality, but it also had to guard against sexual exploitation and unwanted contact. By the 1970s this led to the introduction of new terms such as sexual harassment, designed to mark off women’s rights to prosecute or shame male offenders. Abortion was another fraught issue. Second-wave feminists worked hard to allow women to limit their domestic obligations (if they so chose); abortion rights were a key step here, under the mantra “women’s bodies, women’s rights”. But this campaign butted against religious conservatives who insisted, with equal passion, on the “rights” of the unborn. Many Western countries achieved a compromise, with considerable latitude for abortion up to 12 weeks of pregnancy, but then greater restrictions. But in areas where the Catholic Church was more prominent, as in Latin America, abortion “rights” gained ground more slowly if at all. Abortion rights advanced in the United States but amid polarizing debates. Here was an intriguing clash of rights visions.

Gay rights The civil rights momentum helped extend ideas of rights to additional groups. Overweight people claimed rights against dieting requirements, with some success in law. Important movements for disability rights developed, again with some success. The most important extension, however, involved homosexuals. This group had never before been included in rights rhetoric. Attacks on homosexuals varied by place and time, with informal tolerance frequently allowing discreet activities. But pressures against homosexuals had increased by the mid-20th century – including new medical statements on homosexuality as a mental illness; police raids on gay venues stepped up. In response, a “gay pride” movement took shape in many Western countries, eager to apply rights concepts to this cause. Between the 1960s and the end of the 20th century, gay pride demonstrations and clashes with police combined with steady efforts to shift public opinion toward greater legal and social acceptance of gays – increasingly including demands for marriage rights. Beginning in Denmark, a growing number of countries did legalize gay marriage; and public opinion shifted dramatically, particularly after 2000. Controversies continued, with deep conservative resistance; additional rights demands, particularly by transgender people, roused new resistance, though here too there was change.

Gay rights on the global level Globally, however, gay rights proved much more controversial than women’s rights. The United Nations human rights group quickly supported this new claim. However, deeply religious regions like Africa, the Middle East and Latin America resisted the claims, sometimes stiffening penalties against gays; the Muslim nation of Bhutan even proposed the death penalty, though this was not enforced. Only tolerant South Africa and a few Latin American countries bucked the trend. Russia and some other East European countries also sought to limit gay rights. On the other hand, gay rights gained in India, where the old British law was finally repealed in 2017; Taiwan and a few other Asian countries also moved to legalize marriage. Here was a rights frontier still very much in dispute, with many conservatives insisting on their “right” to refuse tolerance to gays.

Children’s rights The issue of rights of the child was somewhat separate from the larger civil rights movement, but it also came to a head in the later 20th century. The United Nations at various points tried to win agreement on a children’s rights statement, but it foundered on wide disagreements about child labor. South and Southeast Asian countries, still heavily dependent on child labor, resisted sweeping statement; so did the United States, which used children as part of migrant farm labor. Finally in 1989 a Convention on the Rights of the Child was issued, ultimately signed by all countries except the United States. The Convention compromised on labor, stating that children must be banned from burdensome or dangerous jobs. But rights to education and health were clearly established, along with exemption from capital punishment. This was an important if qualified extension of the rights idea, which had been percolating since the 19th century. It helped lead to further moves against child labor, for wider schooling – though problems remained; a number of human rights advocates in India, such as Kailish Satyarthi, worked tirelessly to rescue children from inappropriate jobs and promote schooling. Here too, however, in addition to traditionalist resistance, a dilemma surfaced. Some child rights advocates focused almost exclusively on protections against abuse: hence rights to health and schooling. Others, however, thought children should also have rights against adults, even parents, in cases – such as divorce, or freedom of expression in schools – where their interests were involved. This latter idea gained more headway in Western Europe than in the United States.

Ongoing momentum The civil rights movement gained new momentum in the second decades of the 21st century. Police abuses against African Americans in the United States, including a number of killings of unarmed suspects, led to the formation of a new “Black Lives Matter” movement in 2013. The movement was, at base, a classic civil rights effort, aimed at winning equality of rights against discrimination by authorities. The movement gained huge new momentum in 2020 with the police murder of George Floyd, in Minneapolis. Protests surged in the United States and around the world, leading to wider rights demands by racial minorities in Britain, France, even Japan. The movement also triggered new efforts to win apologies and compensation for colonial abuses against people of color. Here was another open-ended human rights category, moving into the heart of the 21st century.

Study questions:

1. What were the basic rights premises of the civil rights movement? Why did the movement come to embrace so many different issues?

2. What was different about second-wave feminism from earlier feminism, from the standpoint of human rights?
3. What kinds of new rights dilemmas resulted from feminism, gay rights and other new movements?
4. What kinds of global divisions opened up around the new civil rights agenda?

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Chapter 19: The End of the Cold War and a New Global Statement

Surge The last great surge of human rights statements at the global level took shape between the mid-1980s and the very early 2000s. Civil rights movements provided some energy. So did the spread of more democratic forms of government, for example in Latin America, displacing authoritarian and military regimes. The loosening of the Cold War in the late 1980s, including new political latitudes within the Soviet Union, and then the fall of East European communism provided the final spur. To be sure, authoritarian regimes were quickly established in Central Asia and Belarus, but there was new opportunity in much of Eastern Europe, soon including opportunities for many countries to join the European Union, with its firm human rights stance.

Vienna declaration In 1993 the United Nations convened only the second general human rights conference since the adoption of the basic Declaration in 1948; the first, in 1968, to celebrate the 20th anniversary had been largely celebratory. The new gathering, which began to be organized in 1989 as communism fell in Europe, took advantage of a growing optimism, though a number of governments were hesitant; as an Amnesty International leader noted, "It is not surprising that governments are not overenthusiastic. After all, they are the ones violating human rights." The new Declaration urged rededication to the human rights cause. It strongly endorsed voting rights – with free choice – as a fundamental right. It stressed the importance of the elimination of global poverty along with conventional human rights, seeking to erase the individual-social boundary. It emphasized the rights of women and children. A long passage, though building on earlier postwar documents, detailed rights to asylum – a category that would become more important again in the 21st century. The result was the longest list of internationally established human rights ever generated. It was at this point that the new position, United Nations Commissioner for Human Rights, was established.

New commissions Headed by Latin American countries and South Africa, the 1990s saw the establishment of a number of "truth and reconciliation" commissions, designed to acknowledge past rights abuses under authoritarian regimes but also clear the air for apologies and forgiveness. The United Nations itself established one, to deal with past abuses in El Salvador. Other commissions investigated war crimes in the former Yugoslavia and Rwanda. More widely, the UN began considering ways to prevent individual states from granting amnesties to gross violators of human rights.

International Criminal Court The idea of prosecuting leaders for war crimes had gained new momentum after World War II, with trials against top Nazi and Japanese officials. This was an important affirmation, at least in principle, that even in wartime certain individual rights must be respected – an idea dating back to the 19th century. Several officials had urged the establishment of a permanent body, but this did not in fact occur until 2002, with the agreement on a new Court to provide ongoing legal oversight over war crimes. Ultimately, over 100 countries signed on (though not the United States). The court did take up rights violations (including attacks on women) in the Balkans and in Africa, with several successful prosecutions. But it also roused much opposition – for example, from African leaders who believed their

region was being singled out. And it proved powerless against arguable American violations in the wars in Iraq and Afghanistan, and also against the growing wave of non-state military action. Here was a rights area very much in debate.

A pause? Nothing as bold as the Vienna Declaration or the new Court has been ventured since 2002, though it is important to remember the ongoing expansion of the various civil rights efforts in many countries. There is no question that post-Cold War optimism faded after 2000, with a host of new barriers emerging. Whether this was a pause, or a more fundamental shift, cannot yet be determined.

Study questions:

1. What was new about the Vienna Declaration?
2. Why did the United States increasingly hold back from international rights agreements?
3. Was the war crimes category an important human rights issue? Why did it rouse new disputes?

Further reading:

Oumar Ba, *States of Justice: the politics of the International Criminal Court* (Cambridge University Press, 2020).

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Chapter 20: An East Asian Approach

Human Rights and Neo-imperialism Global excitement over human rights in the 1990s helped trigger a critical countercurrent, with various voices arguing that the rights movement was nothing more than an attempt to impose Western values on the other regions of the world. The end of the Cold War, temporarily reducing global counterweights to the West, also encouraged new concerns. In some cases, the argument went – as in American invasions in the Middle East – human rights concerns helped justify outright military intervention that was little different from classic imperialism. Even where force was absent, there was wide concern that Western countries were trying to impose standards on regions with very different and a distinctive set of problems – including basic economic development – that human rights pressures not only ignored, but actually complicated. Variants of this important argument addressed more specific domains. For example, several feminist intellectuals in Africa argued that Western feminism was a dangerously misleading model, tearing down family structures that had long protected African women. They urged a separate African path to feminism that would take regional traditions into greater account, with less emphasis on individual rights.

China The most coherent overall statement came from East Asia, though it picked up on some themes that had been current since the Mexican and Soviet revolutions and the emphasis on social over individual rights. China launched a new effort in 1991, with a White Paper claiming that “owing to tremendous differences in historical background, social system, cultural traditions and economic development, countries differ in their understanding and practice of human rights.” (The immediate background was the violent Chinese suppression of democratic protests in 1989.) Taking pride in their rapid industrial development and reduction of dire poverty, the Chinese believed that their path provided a truer measure of meaningful rights than the conventional individualistic collection favored by the West and the INGOs. The Chinese document explicitly stated that the right to economic development easily surpassed any other goal, and it required community discipline – fulfilling the key goals of the “Chinese people” who had suffered enough hunger and privation. (Note this approach also implicitly undercut the idea of an independent labor movement – just as had been the case in the early stages of Western industrialization – but on the basis of community, not individual rights.)

Further statements The Chinese initiative was elaborated in a regional conference in Thailand in 1993, in which East and Southeast Asian governments agreed that human rights “must be considered in the context of a dynamic and evolving process of international norm-setting” that would reflect “national and regional peculiarities” and cultural backgrounds. The government of prosperous Singapore chimed in, noting “an emphasis on the community has been a key survival values for Singapore”. From this vantage

point, Western rights were simply destructive, tearing down structures that helped prevent crime, family dissolution and other miseries. There was an interesting tension here, in the implication that the West, too, was harmed by its rights approach. And East Asians were quick to seize on Western failures, like the mistreatment of prisoners in Iraq by American forces after 2003. The Chinese government began regularly to report on human rights in the United States, in retaliation for the annual critical review of China and other countries by the US State Department.

Regional autonomy The East Asian push most explicitly rejected the notion of international review. Chinese leaders insisted that human rights were mainly a matter for each individual state. In 1995 the Chinese went on to accuse Western organizations of “imposing their own pattern on others, or interfering with the internal affairs of other countries by using ‘human rights’ as a pretext.” Interestingly, for a moment around 2010, the Chinese official line relaxed a bit, claiming great progress not only on economic and gender rights, but on political rights as well, arguing that human rights advances were an “important mark in the continuous progress of the civilization of human society.” But this stance was soon replaced by an even more strident go-it-alone policy after 2013.

The tension The idea of an East Asian approach oscillated between a sincere belief in an alternative vision, with more state authority but more emphasis on community progress, and a barely-concealed justification for simple authoritarianism. Interestingly Japan did not participate in the “East Asian” statements, having gained its own interest in human rights: the Japanese explicitly rejected an argument for cultural zones as opposed to a universalist approach. An increasingly democratic regime in Taiwan also prided itself on human rights gains, as did the government in Hong Kong until the full Chinese takeover in 2020. For its part, Singapore walked a bit of a tightrope: freedom of the press was restricted, a number of political dissidents were arrested, those who violated community norms were often caned (including a hapless American teenager punished for graffiti, despite loud protests from the Western media). But Singapore also signed a number of human rights declarations, for example on women and children, and de facto tolerated increasing gay rights demonstrations. It is also important to remember that Western critics, as well, urged greater restraint in interfering in the affairs of other regions. The debate continued.

Study questions:

1. Is the human rights movement an extension of imperialism?
2. What were the best arguments for the idea of an “East Asian” approach?
3. Were Chinese and Singaporean leaders sincerely devoted to an alternative human rights vision?

Further reading:

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Chapter 21: A 21st Century Retreat?

Trends The first two decades of the 21st century were not kind to human rights, particularly in comparison with the 1990s. There were some clear bright spots – the gains in attention to gay rights, for example – and important regional and national differences. Gender rights continued to advance in many ways, though equality remained a distant goal. But classic criteria such as freedom of the press, freedom from arbitrary arrest, even in some places religious freedom also showed regression overall.

Main setbacks Any review of the early 21st century captures the main developments. The rise of Islamicist terrorism was a huge blow to human rights: the terrorists had no interest in rights; their vision was a state completely intolerant of minorities and women or any idea of individual freedom. The result destabilized rights in several parts of the Middle East but also in parts of sub-Saharan Africa as a result of non-state violence. Responses to terrorism from the West also cut into personal freedoms in more modest ways, for example on the part of travelers, quite apart from the debatable invasions of

Afghanistan and Iraq. More authoritarian regimes gained ground in China after 2013; Russia; Turkey; Hungary; the Philippines; Myanmar and elsewhere, cutting into freedoms of the press and, in China's case, undertaking systematic repression of the Uighur minority. In the United Nations, China and Russia often combined to prevent resolutions favoring human rights, for example in troublespots such as Syria. Western and Japanese responses were sometimes hesitant, reflecting China's new economic clout; under Donald Trump the United States at least briefly lost interest in human rights efforts (2016-20). Further, a growing number of regimes simply expelled human rights NGOs, reducing their effectiveness in combatting the trends. In India the rise of the Hindu nationalist movement involved major new efforts to curtail the rights of Muslims – another example of the new tensions produced by religious fundamentalism. Israel tightened repression of the Palestinians. Finally, in places like the United States, political polarization produced claims by both sides that their opponents were trampling their rights to free discussion, with new efforts for example to circumscribe voting rights and enact restrictions over the content of classroom teaching.

Arab spring Arab Spring risings, mainly in 2010, briefly surfaced a major new human rights push in the region, designed to unseat authoritarian regimes. The first protest followed from police mistreatment in Tunisia. Many supporters of the movement, there and elsewhere, were eager for a fuller installation of political rights, including democratic elections. But the substantial failure of the movement – outside of Tunisia – was more important than the initial promise. New authoritarian regimes were installed in Egypt and Bahrain, while Syria and Yemen collapsed in civil wars that respected no rights.

Immigration Regional economic problems, in some cases climate change, and political turmoil combined to generate a growing number of refugees and would-be immigrants from the Middle East, parts of Africa, and parts of Latin America, with destinations aimed primarily at Western Europe and the United States. In both cases, the numbers overwhelmed the willingness to accept. Both the European Union and the United States – key defenders of human rights traditionally – clearly violated international law in their refusal to accept many asylum seekers and their reliance on intermediaries to reduce the flow regardless of human cost. The problem was undeniably difficult for all parties, but for the moment at least the responses clearly downplayed the rights involved. Even human rights champions like Denmark cut into the rights of immigrant minorities. France undertook some fascinating restrictions on its large Muslim minority, for example banning veils and hijabs (partly in response to terrorism), arguing that these were essential to secure a secular state and offering a somewhat different definition of religious rights from that popular in other parts of the West.

Bright spots Trends were not unidirectional. While the Arab spring failed in the short run, it helped put pressure on regimes such as Saudi Arabia to modify its resistance to key human rights. The President of the Maldives argued that the Arab spring in fact demonstrated the compatibility of Islam and human rights, and it is possible that over time further discussion will occur. Major protests in favor of regimes more supportive of human rights occurred in Ukraine and some other countries, and there were valiant efforts in Belarus and Myanmar. In many regions, including but not confined to the West, intellectual discussions of human rights retained great vigor. Finally, as environmental problems became more apparent, important efforts developed to articulate environmental human rights (referred to already in the 1993 Vienna declaration). People had the right, according to this argument, to be protected from the most severe results of environmental degradation. Nigerian activists, for example, invoking “environmental rights”, brought suit against oil companies for the damage they caused; they combined the rights argument with Qur’anic justifications for struggles against oppression. A 1992 conference in Rio de Janeiro had in fact ventured a larger Declaration on Environment and Human Rights, that sought to advance key principles – including the relationship between environmental rights and the rights of various ethnic and racial minorities. Here, clearly, was a rights issue that would gain further attention in the future. Finally, the revival and expansion of Civil Rights agitation under banners such as Black Lives Matter and the feminist Me Too movement showed the ongoing commitment to human rights as a means of protesting injustice.

Analogies Particularly because of the rise of authoritarianism and the sometimes weak Western response, some anxious observers saw parallels with the huge human rights retreat that had occurred in the 1920s and 1930s. Others worried about a new Cold War between an authoritarian bloc now championed by China and those regions still committed to liberal democracy – another past pattern that

had at least for a decade crumbled human rights efforts. Obviously, the future was unclear. But some of the most fearsome analogies did seem overdrawn: many of the conditions of the interwar period were simply not present in the 2020s.

The Pandemic and human rights Responses to the global pandemic of 2020-21 raised some fascinating issues for the history of human rights. Many people in the affected countries accepted the need for restrictions such as mask wearing and then vaccinations, seeing the disease as a greater threat to personal freedom than new government measures. But there was an intriguing counterresponse, particularly in many parts of the West such as Germany and the United States, urging defiance of mask mandates and other requirements in the name of ...human rights. Interestingly, rights disputes were far less pervasive in East Asia, where there was wide acceptance of the need for social coordination – though this was also largely true in Australia and New Zealand. (China indeed touted its government-directed response as another sign of the superiority of its authoritarian system.) Whether the pandemic and responses would have any durable impact on human rights standards was not yet clear.

Study questions:

1. What were the most important new human rights problems in the 21st century?
2. Is it useful to apply human rights argument to environmental concerns?
3. Are human rights gaining or retreating in the Middle East overall?

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