HUMANITIES INSTITUTE
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HUMAN RIGHTS IN HISTORY – Early Modern Period

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INTRODUCTION

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'a 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 nonEuropean 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 hesitancies 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:

Kathryn Sklar and James Stewart, eds., *Women's Rights and Transatlantic Antislavery in the Era of Emancipation* (Yale University Press, 2007).

Berdal Aral, "The Idea of Human Rights as Perceived in the Ottoman Empire," *Human Rights Quarterly* 26 (2004): 454-82.

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

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 latitudes, 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).

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).

Gary Herbert, *A Philosophical History of Rights* (Transaction, 2002).