

Human Rights from the International Relations

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Human rights are a very important area in contemporary international relations. The doctrine of human rights was concretized after a process of development of more than three centuries after the end of the Second World War and has changed the institutional panorama and the relations between actors at the international level. On the other hand, regardless of its «lack of teeth», the international regime on the subject has transformed the way states relate to international bodies, transnational civil society organizations and other governments.



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BY **Alejandro Anaya Muñoz**

Introduction

Human rights are an element of contemporary international relations (in lowercase, i.e., the phenomenon). It is difficult to imagine current «international politics» without the existence of international human rights standards, without international bodies specialized in the field and without civil society organizations seeking to promote and protect human rights around the world. The main objective of this document is to present the relevance of the conceptual, theoretical and analytical tools offered by International Relations (IR, in uppercase, i.e. the discipline), for the study of human rights, as well as to offer a description of the main lines of research on human rights that have been followed from an IR perspective, and to identify its main results.

This document begins by developing a brief definition of what human rights are and raising an argument about its purely historical character. Later it uses IR's concept of «international regime» to analytically describe the existing international institutional human rights machinery and emphasizes the gap between «rights in principle» and «rights in practice» or, in other words, between the «commitment» to human rights and the «compliance» with the norms and rules on the subject. Afterwards the document describes the two main lines of IR human rights research and concludes by pointing out the impact of human rights in the practice of states and emphasizing the relevance of IR's own analytical instruments, theories, concepts and frameworks for the study of human rights and their influence in the world.

What are human rights?

It is often argued that human rights are those that all humans have, by virtue of our dignity as such and therefore without distinction of race, sex or gender, language, religion, nationality, opinions or beliefs of any kind, migration status, sexual preference, physical or mental abilities, or any other element suggesting a difference between human beings. However, if we consider this definition more carefully, it may generate some doubts or require some clarifications.

First of all, what is a «right» and what does it mean to say that humans «have» rights? To begin with, a right is a prerogative or an immunity; that is to say, a benefit or the access to a given good that cannot be denied and/or the prohibition of certain types of treatment. In this sense, for example, we have the right to health or to due process, as well as the right not to be tortured or subjected to enforced disappearance. On the other hand, what does «having» rights imply? Do we have a right in the same way that we have a shirt, a computer or a book? This would imply that human rights are «things»; that belong to the material world. But human rights are not things, but concepts (although related to some specific material goods, in a remarkable way to our body and its condition). In this way, rather than «having rights», human beings are «holders» of them.

Now, the correlative component of a right is an obligation. So if we consider someone to be the holder of a right then there has to be a third party obliged to protect or guarantee that right. In the case of human rights, that third party is the State; although much has been discussed if some non-state actors (such as armed rebel groups or multinational corporations) can or should sometimes be considered as subjects of human rights obligations.

Conversely, as suggested by the phrase «without distinction of any kind» in the definition that is given lines above, human rights are universal. The first approaches to «Natural Rights» (in the seventeenth century) and those of the «Rights of Man and Citizen» (in the eighteenth century) did not include all people within the group of rights holders: slaves and women were excluded, to begin with. But human rights, as we understand them today, are characterized by radical universalism: all people hold the same rights.



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The historical development of human rights

Human rights are a purely historical concept; in other words, they have a specific origin in history, particularly the history of ideas. While it is true that many cultures and religions, at different times, have established specific prescriptions or proscriptions of behaviour related to solidarity, charity, empathy, justice and so on, it is important not to confuse them with human rights as such. Human rights originate from the idea of «Natural Rights», developed at the dawn of the modern age by different thinkers, among which John Locke stands out in the second half of the seventeenth century. A century later, very important steps were made in the context of the Revolution of independence of the United States and the French Revolution. Finally, the concept and the doctrine of human rights as we know it emerged in a clear way after Second World War, particularly with its inclusion in the Charter of the United Nations (UN) and the adoption of the Universal Declaration of Human Rights (UDHR) in 1948 (Anaya Muñoz 2014:40-59).

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SUGGESTED ACTIVITY

Review the content of John Locke's *Second Treatise of Government*, the Declaration of Independence of the United States, the Virginia Declaration of Rights, the Declaration of the Rights of Man and Citizen and the UDHR. Identify the similarities and differences in their understanding of rights, including: a) its justification and/or foundation; b) who are the rights holders, and c) the list of rights included.

The international human rights regime: the gap between commitment and compliance

After its inclusion among the purposes of the UN in 1945, human rights were constituted eminently as international. That is to say, as a legitimate aspiration not only of states, acting for themselves and or within their respective jurisdictions, but of the international community as a whole and of the UN and its organs. From this moment on, what is now a dense *international human rights regime* began to gradually develop (Anaya Muñoz 2017).

THE INTERNATIONAL HUMAN RIGHTS REGIME:

- ▶ **D- Principles:** Human dignity, equality in value and rights; universality and internationalism; inalienability, interdependence and indivisibility of rights
- ▶ **Norms and rules:** List of human rights; procedural obligations of states (e.g. to prepare periodic reports for treaty bodies)
- ▶ **Decision-making and implementation bodies:** for example, the UN Human Rights Council, the UN Committee against Torture, the Inter-American Commission and Court of Human Rights, etc.

We can say that the international human rights regime consists of a set of specific regimes, which have developed around the various existing international organizations. In this sense, we can talk about the UN human rights regime, the European Council regime (EC), the regime of the Organization of American States (OAS) or the African Union regime (AU) and even an incipient regime within the framework of the Association of Southeast Asian Nations (ASEAN). In practice, the degrees of «institutional density» of the different international human rights regimes varies, while all of them have evolved over time (Anaya Muñoz 2017).

The main functions that states have delegated to international human rights regimes are the promotion, monitoring and protection of human rights. Monitoring involves the elaboration of some kind of inquest or investigation regarding general *situations* of human rights violations. In other words, international human rights bodies observe the situation with respect to a right or an issue or in a particular country and, based on that, establish the extent to which the rights involved are being respected or not. The result of this monitoring exercise is generally the elaboration of reports (thematic and/or of a country focused), which usually include specific recommendations, which, however, are not binding on states. Protection, on its part, is given around *specific cases* of violation. The decisions of the bodies with regard to the facts of such cases require states to adopt «measures of non-repetition» which in principle may prevent similar violations in the future, as well as the search for truth, justice and the reparation of the damage. To this end, the European, Inter-American and African Human Rights Courts, as well as the Inter-American Commission on Human Rights (IACHR) and the UN treaty bodies have the power or competence to receive complaints about specific

cases of violations of human rights perpetrated by specific states and make decisions on their merits. In the case of this protection function, through the clarification of the facts of the case and the adoption of specific reparation measures, international human rights bodies seek to protect the human rights of individual persons by offering a framework for the search for truth, justice and reparation. The decisions taken in this framework, however, may be binding or non-binding. Only the properly speaking jurisdictional bodies—the European, Inter-American, and African Courts—can adopt rulings, which are binding or legally mandatory on states.

International human rights regimes have evolved over time, from simply declarative and promotional regimes, to having more functions for monitoring and protection. However, in spite of this, none of these regimes have the power and above all the coercive capacities that are necessary to force states to comply with their recommendations or rulings. So we can conclude that international human rights regimes «have no teeth» (Anaya Muñoz 2017).

In the light of this description, why did states create international human rights regimes? It is not the aim of this brief document to develop a single answer to this question; beyond that, surely the answers will vary, depending on the particular regime or the specific institutional development that interests us. IR theories, however, offer a framework of concepts and causal mechanisms that allow us to answer these kinds of questions, helping us to raise different hypotheses, focusing on (military) power, the generation of collective goods and the elimination of obstacles to cooperation, the influence of domestic actors or the constitutive role of identities and international norms.

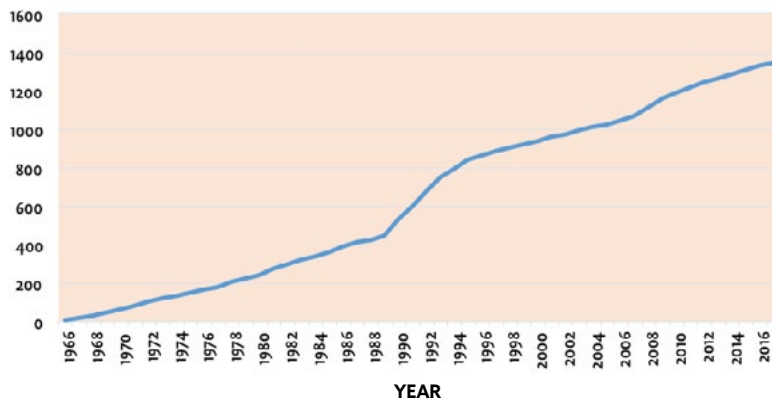
On the other hand, perhaps the most important question is: so what? In other words, international human rights regimes exist and have been strengthened over time. But do they make a difference? Has the human rights situation in the world improved as a result of their existence? Do they really influence the behaviour of states in practice?

At the global aggregate level, the degree of ratification of most international human rights treaties is very high. If we track trends over time, we can identify a clear upward trend. The levels of «commitment» to the norms of the regime are, in other words, very high.



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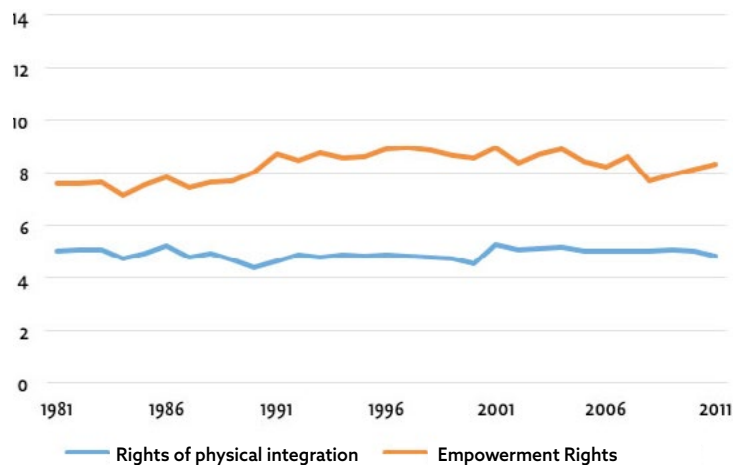
GRAPH 1.
AGGREGATE NUMBER OF RATIFICATIONS
OF THE NINE MAJOR UN HUMAN RIGHTS TREATIES



Source: Author's elaboration. Updated to November 2017.

However, this has not been clearly reflected in a similar process in terms of «compliance». Using aggregate indicators at the global level as a reference, the world's human rights situation, at best, has improved in a very marginal way over the past 30 years; precisely the time in which international human rights regimes have spread and grown in their institutional density and where transnational activism has been intense. Graph 2, in conjunction to Graph 1, shows a clear gap between «commitment» and «compliance», or between «rights in principle» and «rights in practice»

GRAPH 2.
RATES OF RIGHTS OF PHYSICAL INTEGRITY AND «EMPOWERMENT RIGHTS»
(GLOBAL AVERAGES)¹



Source: Produced by the author with data from the Cingranelli and Richards Human Rights Data Project (<http://www.humanrightsdata.com/>)

¹ The index of physical integrity rights is presented on a scale of 0 to 9 points, in which 0 is complete lack of respect and 9 absolute respect. The scale of the empowerment rights index goes from 0 to 14 points. See: <http://www.humanrightsdata.com/>

Transnational networks for the promotion and defence of human rights

Human rights did not always interest IR scholars or students. During the past three decades, however, a sizable body of IR literature has emerged, focusing precisely on the study of the consequences or effects of the international human rights regime and transnational activism. A large number of authors have explored the results of the transnational pressure generated by Transnational Advocacy Networks (TANs). Research on TANs and transnational activism of human rights (which tends to use a qualitative approach and follow constructivist arguments) were developed around two theoretical proposals that came into existence in the late nineties of the twentieth century and have been very influential: the «boomerang effect» (Keck and Sikkink 1998) and the «Spiral Model» (Risse, Ropp and Sikkink 1999 and 2013). These proposals argue, in very general terms, that by exerting pressure or «shaming» repressive states, TANs put in motion the dynamics of «the logic of consequences» and «the logic of appropriateness», which persuades states to change their behaviour; in other words, to stop violating human rights. More than three decades later and after a large number of case studies, however, the initially optimistic expectations about these dynamics were tempered, recognizing clear limits on the effects of transnational activism. Currently, the literature acknowledges the preponderance of internal or domestic causal factors in the desired transition from commitment to compliance (Risse, Ropp and Sikkink 2013).



AT FIRST, RESEARCHERS FOUND THAT THE RATIFICATION OF TREATIES WAS NOT ONLY NOT CORRELATED WITH AN IMPROVEMENT IN RIGHTS' RESPECT BUT, ON THE CONTRARY, STATES APPEARED TO VIOLATE MORE RIGHTS AFTER RATIFICATION.

The impact of treaty ratification

For its part, numerous quantitative studies have focused on tracing the effects of treaty ratification on the indices of violation of physical integrity rights in practice. At first, researchers found that the ratification of treaties was not only not correlated with an improvement in rights' respect but, on the contrary, states appeared to violate more rights after ratification (Hathaway 2002). Other authors, highlighted what they called «the paradox of empty promises»: that is, despite the fact that ratification was not directly correlated with a better behaviour on the part of states, it did increase the normative tools available to the groups dedicated to the defence and promotion of human rights and empowered them (Hafner-Burton and Tutsui 2005). Other studies found that the ratification of human rights treaties does have a positive impact on the

levels of rights' respect; although the effect is weak or moderate (Landman 2005). Other authors found that ratification has had a positive impact on the levels of human rights respect under certain conditions: in the most democratic countries that count with strong civil society organizations with transnational linkages (Neumayer 2005). Finally, in the most complete and convincing study on the subject, Beth Simmons (2009) concluded that the ratification of treaties does have a positive influence on the levels of respect, particularly in transition democracies or «in flux» that have a civil society that litigates and mobilises for human rights. In short, perhaps the main contribution of all this literature is the realization that, beyond the influence of international actors and norms, the key to the generation of profound changes in the field of human rights are fundamentally internal or domestic.

Final Considerations

Human rights are a very important thematic area in contemporary international relations. The doctrine of human rights, which after a three-centuries long process of development was concretized after the end of Second World War, has changed the institutional panorama and the relations between actors at international level. On the other hand, regardless of their «lack of teeth», the international regime on the subject has transformed the way states relate to international organs and bodies, transnational civil society organizations and other governments. Despite the limits in their influence, international regimes and the dynamics of transnational activism have empowered local civil society actors and have influenced the way states make decisions and behave. The causes and consequences of the international human rights regime are not entirely clear, however. There are still many questions to be answered, many research projects to be carried out in this regard, and IR theory, concepts and analytical frameworks offer a useful toolkit for this.

 **THE DOCTRINE OF HUMAN RIGHTS, WHICH AFTER A THREE-CENTURIES LONG PROCESS OF DEVELOPMENT WAS CONCRETIZED AFTER THE END OF SECOND WORLD WAR, HAS CHANGED THE INSTITUTIONAL PANORAMA AND THE RELATIONS BETWEEN ACTORS AT INTERNATIONAL LEVEL.**

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