
Human Rights

An Overlapping Consensus Among International Political Theories?

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Jack Donnelly's concept of an "overlapping consensus" among human rights is often quoted to explain the notion that modern human rights represent only those rights found at the convergence of all cultures, philosophies, and religions.⁵² The same consensus does not exist among the most influential political theories in modern history, however. I first examine different perspectives on human rights as offered by liberalism, realism, and Marxism. I find that although liberalism and realism use human rights to further their arguments and objectives, Marxism remains adamantly opposed to the concept. While Donnelly has discovered an overlapping consensus for human rights among cultures, this same consensus cannot be found within international political theory. The paper will examine three theories as well as their popular descendants. These theories are chosen because they are the most prominent international political theories. After thorough examination, one finds that even among these three theories alone, a consensus for human rights is unattainable.

THE UNITED NATIONS AND THE ESTABLISHMENT OF HUMAN RIGHTS

In an immediate response to the atrocities of the Holocaust and the two world wars, 51 states committed to international cooperation and human rights through the creation of the United Nations.⁵³ Three years

later, the United Nations published the Universal Declaration of Human Rights. To make the declaration legally binding, the United Nations produced and adopted two covenants that together reiterate and expand on the declaration: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Together the Universal Declaration of Human Rights and the two covenants form what is known as the International Bill of Human Rights and assume the definition of human rights provided by the United Nations, "Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status."⁵⁴ The United Nations Commission on Human Rights was established by the United Nations in 1946 to oversee the implementation of human rights.⁵⁵ In 2006, the United Nations General Assembly replaced the commission with the Human Rights Council and granted the council greater powers.⁵⁶

[http://www.un.org/en/sections/history/history-
united-nations/index.html](http://www.un.org/en/sections/history/history-
united-nations/index.html).

The United Nations, *Charter of the United Nations* (1945), Chapter 1, Article 1, accessed November 27, 2015,

[http://www.un.org/en/charter-united-
nations/index.html](http://www.un.org/en/charter-united-
nations/index.html). (Emphasis added.)

⁵⁴ "What Are Human Rights," United Nations Human Rights: Office of the High Commissioner for Human Rights, accessed November 27, 2015,

[http://www.ohchr.org/EN/Issues/Pages/Whatare
HumanRights.aspx](http://www.ohchr.org/EN/Issues/Pages/Whatare
HumanRights.aspx).

⁵⁵ "United Nations Commission On Human Rights," United Nations Human Rights: Office of the High Commissioner for Human Rights, accessed December 02, 2015, [http://www.ohchr.org/EN/HRBodies/CHR/Pages/
CommissionOnHumanRights.aspx](http://www.ohchr.org/EN/HRBodies/CHR/Pages/
CommissionOnHumanRights.aspx).

⁵⁶ "United Nations Human Rights Council," United Nations Human Rights: Office of the High Commissioner for Human Rights, accessed December 02, 2015,

⁵² Jack Donnelly, *Universal Human Rights in Theory and Practice*, 3rd ed. (Ithaca: Cornell University Press, 2013), 57-72.

⁵³ "History of the United Nations," United Nations, accessed April 01, 2016,

REALISM

If an overlapping consensus on human rights can be found in international political theory, it must include realism. Realism is arguably one of the oldest and most foundational international political theories. Classical Realism emphasizes the international realm as one of anarchy and assumes man is immoral and self-interested. Without the presence of an overarching sovereign power to reign in the desires of individual states, these states are assumed to be in a constant state of war of all, against all. States survive this brutal arena only through their own might and alliances with other states. According to Thucydides, “the strong do what they have the power to do and the weak accept what they have to accept.”⁵⁷

From the realist perspective, human rights are the will of strong states imposed upon weak states. In the 21st century, strong states are usually considered those states in the West, the “developed” world, or the Global North. Whether or not strong states have, in fact, imposed human rights, or their version of human rights, on weaker states is up for debate. However, the Global South has expressed at times in the Human Rights Council that this is the case. According to realism, the only profitable response for weak states in an international organization is to form an alliance against stronger states.⁵⁸ This has indeed occurred within the Human Rights Council. In retaliation to the demands of strong states in the council, developing states have partnered together in an organization aptly named the Like-Minded-Group, a group

that decries the imperialism within the International Bill of Human Rights as well as in administration of the Human Rights Council.⁵⁹ Rosa Freedman, author of *The United Nations Human Rights Council: A Critique and Early Assessment*, says of the Human Rights Council (HRC), “Surprisingly, weaker states have thus far politicized the HRC more frequently than stronger states. Weaker states, predominantly from the Global South, form alliances and use group tactics, such as bloc voting, to further common agendas.”⁶⁰ This does not, of course, mean that weaker states have been able to completely counteract the will of stronger states, only that the weaker states have used such alliances to express themselves in the council.

Unlike its parent, neorealism does not take into consideration human nature. Instead neorealism focuses on how the structure of the international realm can impact sovereign behaviour. In neorealism, the international arena is again one of anarchy. Without a world government, there is no higher power to enforce safety or guarantee protection. For this reason, states must be powerful enough to protect themselves; there is no consideration of cultural differences.⁶¹

Neo-realism argues the stronger the state, the less vulnerable the state is in the international arena.⁶² This is arguably true regarding the Human Rights Council as well. While Donnelly argues that “states are legitimate largely to the extent that they respect, protect, and implement the rights of their citizens,” a neorealist would argue that the more powerful a state is, the less likely

<http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>.

⁵⁷ Chris Brown, Terry Nardin, and N. J. Rengger, *International Relations in Political Thought: Texts from the Ancient Greeks to the First World War*, Kindle ed. (Cambridge: Cambridge University Press, 2002), 54.

⁵⁸ Rosa Freedman, *The United Nations Human Rights Council: A Critique and Early Assessment* (London: Routledge, 2013), 90.

⁵⁹ *Ibid*, 30, 32.

⁶⁰ *Ibid*, 120-121.

⁶¹ Tim Dunne, Milja Kurki, and Steve Smith, *International Relations Theories: Discipline and Diversity* (New York: Oxford University Press, 2007), 72.

⁶² Huseyn Aliyev, "Neo-Realism and Humanitarian Action: From Cold War to Our Days," *The Journal of Humanitarian Assistance*, May 16, 2011, accessed December 01, 2015, <https://sites.tufts.edu/jha/archives/1173>.

weaker states will successfully reprimand the state on its human rights violations.⁶³ Many argue that the death penalty, the treatment of Native American and other minority populations, and the use of torture in Guantanamo Bay are all examples of violations of human rights committed by the United States. Yet in not one of these cases has serious international action been taken against the United States. China's use of force in Tibet as well as Russia's human rights violations in Chechnya and the North Caucasus are further examples of human rights violations committed by strong states with little to no repercussion.⁶⁴

Neorealism further argues that states must gain power to protect and defend themselves against other states. It follows then that states would attempt to secure this power through the implementation and protection of human rights. Since the fall of the Soviet Union, strong states use the banner of human rights to justify humanitarian intervention. A neorealist would argue that a state does not engage in humanitarian intervention for the sake of human rights alone. Instead, a state would require further motivations to intervene. It could be argued, for instance, that humanitarian intervention was not undertaken during the Rwandan genocide of 1994, despite gross human rights violations. In 2013, humanitarian intervention was avoided during the onset of the genocide in Darfur, in part because there was little for states to gain from engaging in this conflict.⁶⁵

LIBERALISM

In the same way that realism encourages the implementation of human rights, so too does liberalism. In comparison to realism, however, the influence of liberalism on human rights is more direct.

⁶³ Donnelly, *Universal Human Rights in Theory and Practice*, 62.

⁶⁴ Aliyev, "Neo-Realism and Humanitarian Action: From Cold War to Our Days."

⁶⁵ *Ibid.*

While liberalism also believes that man is self-interested and concludes that the international realm is a dangerous place, liberalism emphasizes optimism and the possibility of international cooperation through international organizations and international law. Very simply expressed by Jack Snyder of Foreign Policy, "[liberals] foresee a slow but inexorable journey away from the anarchic world the realists envision, as trade and finance forge ties between nations, and democratic norms spread."⁶⁶ Liberals who maintain democratic peace theory carry the expectation that democratic states will not go to war and instead assume that any conflict among democratic states will be resolved using peaceful diplomatic relations.⁶⁷ While democratic peace theory is not a required belief of all liberals, it is probably the "the most significant and also most politically influential version of liberalism in International Relations."⁶⁸ One such example of liberal optimism is the famous "Golden Arches Theory of Conflict Prevention," a theory developed by Thomas Friedman in 1996 that states that "no two countries that both have a McDonald's have ever fought a war against each other" (though this theory has since been disproven).⁶⁹ The creation of the United Nations, and the League of Nations before it, are both products of

⁶⁶ Jack Snyder, "One World, Rival Theories," Foreign Policy, October 26, 2009, accessed December 2, 2015, <http://foreignpolicy.com/2009/10/26/one-world-rival-theories/>.

⁶⁷ Snyder, "One World, Rival Theories"; Dunne, Kurki, and Smith, *International Relations Theories: Discipline and Diversity*, 97.

⁶⁸ Dunne, Kurki, and Smith, *International Relations Theories: Discipline and Diversity*, 96.

⁶⁹ Daniel W. Drezner, "Is It Even Possible to Kill an International Relations Theory?," Foreign Policy Is It Even Possible to Kill an International Relations Theory Comments, July 28, 2011, accessed April 05, 2016, <http://foreignpolicy.com/2011/07/28/is-it-even-possible-to-kill-an-international-relations-theory/>.

international liberalism and a belief in the power of diplomacy.

Neoliberalism, while very similar to liberalism, focuses more so on institutions and organizations in the international realm.⁷⁰ Neoliberals acknowledge that there is not a world government to enforce international agreements. International organizations are highly valued in neoliberalism because they provide “forums in which states can mitigate collective-action problems that threaten stable patterns of cooperation.”⁷¹ International organizations, within this theory, monitor compliance with international agreements, promote international cooperation, and encourage peaceable conflict resolution.⁷²

Liberalism and neoliberalism, as opposed to realism, do not accept that human rights are the will of the strong imposed upon the weak. Instead, liberal and neoliberals are more optimistic. “Governments accept binding international human rights norms because they are swayed by the overpowering ideological and normative appeal of the values that underlie them,” argues Andrew Moravcsik of Princeton University.⁷³ Jack Donnelly’s “overlapping consensus” varies slightly from Moravcsik’s but offers an equally liberal approach: human rights are never an imposition; they are instead the set of rights shared by all major cultures, philosophies, and religions.⁷⁴ In regards to the slow liberal progression away from anarchy, human rights serve the purposes of liberalism and neoliberalism by creating norms of state behaviour. In both, states have an incentive to participate in international human rights instruments, even when required to sacrifice

⁷⁰ Dunne, Kurki, and Smith, *International Relations Theories: Discipline and Diversity*, 110.

⁷¹ *Ibid*, 111.

⁷² *Ivi*.

⁷³ Moravcsik, “The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe,” 225-229.

⁷⁴ Donnelly, *Universal Human Rights in Theory and Practice*, 57-72.

an amount of sovereignty for the sake of human rights. Democratic peace theory concludes that established democracies have an incentive to promote human rights to newly formed democracies, and newly formed democracies have an incentive to implement human rights domestically, if only so that both parties avoid war with one another.⁷⁵ While the International Bill of Human Rights does not explicitly demand democracy, it requires a government with free elections and universal suffrage: “the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”⁷⁶

MARXISM

Though both realism and liberalism promote the implementation of human rights, Marx (and therefore Marxism) stands strongly opposed. Marxism is the international political theory that refuses a political consensus regarding human rights. Karl Marx himself directly addressed the “rights of man” in his works. However, a distinction must first be made between the “rights of man”, as discussed by Karl Marx, and the concept of human rights today.

The subject of Marx’s critiques are the rights provided by the French Constitution of 1793, more specifically, the right to “liberty, equality, and private ownership.”⁷⁷ The

⁷⁵ Moravcsik, “The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe,” 225-229.

⁷⁶ The United Nations, *The Universal Declaration of Human Rights* (1948), Article 21, accessed December 01, 2015, <http://www.un.org/en/universal-declaration-human-rights/index.html>.

⁷⁷ Marcel Van Herpen, *Marx and Human Rights: Analysis of an Ambivalent Relationship*, 07th ed., vol. 12, Cicero Foundation Great Debate Paper (Paris/Maastricht: Cicero Foundation, 2012), pg. 8,

constitution granted equality to all men, universal manhood suffrage, and abolished slavery.⁷⁸ These “rights of man” were a contributing factor in the progression towards human rights. Modern human rights, however, are far more broad and inclusive. The human rights of the International Bill of Human Rights guarantees the rights listed to all individuals “without distinction of any kind” and include political rights, civic rights, economic rights, social rights, and cultural rights. These include, but are certainly not limited to, the right to religious freedom, the right to education (including free, compulsory primary education), and the right to just and favourable conditions of work.⁷⁹

Karl Marx’s criticisms of the rights of man are rooted in his belief that the rights of man are dependent upon the concept of civil society. According to Marx, there are two worlds: a political state and a civil society.⁸⁰ In the political state, man “considers himself a communal being.” In comparison, in civil society, man acts as “a private individual, regards other men as a means, degrades himself into a means, and becomes the plaything of alien powers.”⁸¹ Marx views the

rights of man afforded by the French Constitution of 1793 as the response to the degradation of French civil society.⁸² As such, Marx views the rights of man as “nothing but the rights of a member of civil society – i.e., the rights of egoistic man, of man separated from other men and from the community.”⁸³ The rights of man, then, cause man to pursue his own selfish interests, separate man from his community, and therefore alienate man from his natural self.⁸⁴

The rights of man as defined by France in 1793 are not direct equivalents to modern human rights. There is just reason to believe, though, that Marx would also criticize human rights as established and enforced by the United Nations. The very creation of the United Nations and the subsequent Universal Declaration of Human Rights was a direct reaction to the horrors of the Holocaust, just like that French Constitution of 1793 was a response to the degradation of French civil society.⁸⁵ Marx would therefore also view modern human rights as a method of alienating individuals from one another. To further prove this point, it should be noted that in the International Bill of Human Rights, human rights are granted to individuals rather than collectives (with the sole exception of the group right to self-determination).

Furthermore, human rights are the product of sovereign deliberation rather than the demands of the masses. The United Nations, when contemplating the Universal Declaration of Human Rights, used as inspiration the rights afforded by often western constitutions. As a result, the demands of western citizens in their

http://www.cicerofoundation.org/lectures/Marcel_H_Van_Herpen_Marx_and_Human_Rights.pdf.

⁷⁸ “Constitution of 1793,” Liberty, Equality, and Fraternity: Exploring the French Revolution, accessed November 25, 2015, <https://chnm.gmu.edu/revolution/d/430/>.

⁷⁹ The United Nations, Human Rights Office of the High Commissioner, *International Covenant on Civil and Political Rights* (1966), Article 18, accessed December 3, 2015, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

The United Nations, Human Rights Office of the High Commissioner, *International Covenant on Economic, Social and Cultural Rights* (1966), Article 7 and 13, accessed December 3, 2015, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

⁸⁰ Van Herpen, *Marx and Human Rights: Analysis of an Ambivalent Relationship*, 8.

⁸¹ Karl Marx, “On The Jewish Question,” *On the Jewish Question*, Autumn 1843, accessed

November 25, 2015,

<https://www.marxists.org/archive/marx/works/1844/jewish-question/>.

⁸² Van Herpen, *Marx and Human Rights: Analysis of an Ambivalent Relationship*.

⁸³ Marx, “On The Jewish Question.”

⁸⁴ Van Herpen, *Marx and Human Rights: Analysis of an Ambivalent Relationship*

⁸⁵ Donnelly, *Universal Human Rights in Theory and Practice*, 25.

respective states (including, but not limited to, the United States, the United Kingdom, and France) for inalienable rights were subsequently coded into international law and made binding on states party to the two human rights covenants. There is an argument that “human rights” are, if not an invention of the West, at the very least defined by western ideals. In this light, human rights cannot be the product of the revolution of the working class or even to the benefit of the masses. According to Marxist theory, human rights are used by the arguably bourgeois states (the West), to enforce western civilization on the proletariat states (the Global South).

CONCLUSIONS

The question remains, then, whether or not there exists an overlapping consensus among international political theories and their interpretations of human rights. Not all international political theories were examined within this essay, yet even amongst these few theories, there is not an overlapping consensus in favour of human rights. Realism and liberalism each have reasons to favour the identification and implementation of human rights, though for different reasons. Realism favours human rights as a tool for strong states to gain power in an anarchical world. Liberalism perceives human rights as both the evidence of international cooperation and a mechanism towards international cooperation. Despite these fundamental differences, the two theories offer optimistic perspectives on the benefits of human rights instruments.

An overlapping consensus in international political theory cannot be justified if Marxism is included in the analysis. Marx’s opposition towards the rights of man can be directly applied to Marxist interpretations of the modern human rights regime. Marxism refuses to accommodate human rights. According to Marx, human rights encourage men to pursue selfish interests and alienate one man from one another. Marxism, as opposed to realism and

liberalism, does not focus on the state. Instead, Marx’s attention is set on the individual and his relationship with the community. In Marxist theory, rights prevent community and therefore must be avoided. Instead, Marx believes that collectively, the working class should institute a new world order. Individual rights, according to Marx, only serve to patch up the holes in a failing system. A new world order, established by a revolution of the working class in Marxist fashion, would favour the working class and encourage community among men.

While Jack Donnelly may argue that there is an overlapping consensus on human rights in regards to cultures, philosophies, and religions, there is not an overlapping consensus in international political theory. Marxism, as it was originally intended by Karl Marx, is far too opposed to the concept of individual rights. Both realism and liberalism, however, are in agreement regarding the potential benefits of human rights. Although Marxism strongly protests human rights, this opposition seems to have done little to harm the human rights regime altogether. Proponents of Marxism have certainly failed to abolish the human rights regime outright. Despite this lack of consensus, human rights enjoy near universal approval. Where states vary, however, is in their application and enforcement of human rights depending, in part, on their school of international political thought.