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# What Are Human Rights and Where Do They Come From?

Peering through our Clausewitz-inspired prism from yet another angle, we now turn to changing international norms and laws. Our discussion today asks a very simple two-part question — what are human rights and where do they come from?

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Over the first eight weeks of the ISN Editorial Plan, our analysis of structural changes to the international system has walked a fine line between their impact upon mechanisms and processes on the one hand and concepts and culture on the other. This week's analysis of the development and application of human rights is by no means an exception to this rule. Our discussion today begins by asking a very simple two-part question – what are human rights and where do they come from? To help answer each part we will first look at two pieces written by Michael Perry – [“What is a “Human Right?”](#) and [“The Grounds of Human Rights.”](#) Then, we will briefly consider Lynn Hunt's account of the historical genesis of human rights in her acclaimed book, *Inventing Human Rights* (2007).

## What do we mean by human rights?

Perry begins his discussion of human rights, as many do, by looking at instruments such as the Universal Declaration of Human Rights (1948). That the United Nations General Assembly promulgated this document confirms to Perry that human rights instruments express rules of conduct which mainly apply to governments. They direct state actors either not to do something *to* human beings, or to do something *for* human beings. In other words, human rights imply “duty-bearers,” whose conduct is governed by the rules in question, as well as “rights-holders.” In the case of most international treaties, for example, “duty-bearers” are *only* governments. As for “rights-holders”, some instruments include *all* human beings, while others, such as the Convention on the Rights of the Child, include only *some* of them.

Another distinction is whether a human right is a legal right or simply a moral right. The main difference is that legal rights are “enforceable” through courts that can determine whether they have been violated, and what remedies duty-bearers have to comply with. If a rule of conduct implied in a human right is not enforceable in this sense, it is not a legal right but a moral right. The unenforceability of rights understood as moral rights, Perry notes, has always been a source of skepticism about their usefulness – summed up memorably by Jeremy Bentham as nothing more than “bawling upon paper” and a form of “nonsense upon stilts.” Perry argues, however, that human rights

understood as moral rights are useful even if they are not enforceable. This is because the language of human rights has become “a moral lingua franca” and “a convenient way of talking about ‘what is just’ from the viewpoint of the ‘other’”. The central virtue of this discourse of moral rights, Perry argues, is that it “gives prominence to obligations that arise, not from social status or special talents, but from the dignity of human status itself.”

### **What is the basis for human rights?**

Underscoring the international human rights regime are the “equal inherent dignity” and “inviolability” of every human being. But why does every human being have equal inherent dignity? Traditionally, answers to this question have been religious or metaphysical in nature. According to the philosopher Charles Taylor, the idea of equal inherent dignity arose primarily out of religious traditions and the belief that all human beings are “created in the image of God.” Yet questions remain as to whether equal inherent dignity can be justified from a secular or scientific point of view. Because human rights – like so much of our moral language – were originally built on ideas that are now discredited or controversial, they now operate as if “the bottom has been taken out.”

For Perry, however, this ‘bottomlessness’ is not a terminal condition. Discredited or controversial religious or metaphysical justifications establishing the equal inherent dignity of human beings can be replaced with secular ones. Two such candidates that Perry discusses are self-interest and altruism. The argument from self-interest is obviously a pragmatic one. Its most important claim is that recognition of the equal inherent dignity of human beings is “the foundation of peace in the world.” It argues that “states that respect human rights tend to be the world’s most peaceful and stable” and “the worst violators of human rights tend to be the world’s aggressors and proliferators.” This, moreover, is the most important lesson of the events of September, 11, 2001, or so William Schultz, former Executive Director of Amnesty International, argues. According to Schultz, “ignoring the fates of human rights victims almost anywhere invariably makes the world – our world – a more dangerous place.”

Another viable secular basis for ‘equal inherent dignity’ is altruism. For Perry, this perspective is a fundamental sensibility – or identity – that exists in actual human beings, rather than a logical justification or even an appeal to reason. It rests on “the metaphor of the whole human race as One Family, of all women and men as sisters and brothers,” which is also to say, on an increasingly widespread phenomenon. A growing number of people in the world today do indeed identify primarily with humanity as such, and not necessarily with one particular community or another. To some extent, Perry views this perspective as “anti-foundational” and rejects the idea that it is always necessary to provide explicit rational justifications that can be tested against neutral or objective standards. In response to the demand for self-justification, he imagines an altruist merely responding: “I have reached bedrock and my spade is turned.” Indeed, to quote Wittgenstein, we often demand explanations and justifications “for the sake not of their content, but of their form.” In such instances “our requirement is an architectural one” – personally useful, but perhaps no more than that.

### **Where did human rights come from?**

Articulating a credible basis for human rights, however, answers our initial question only partially. Equally important is a historical account of exactly when, where and how human rights evolved and were subsequently ‘internationalized.’ Though a full recapitulation of this process would require more space than we have here, the venerable historian Lynn Hunt can do the talking for us. In her lecture for University of California Television, Hunt walks us through the core argument of her acclaimed book, *Inventing Human Rights*. Her culturally-based argument is that the history of human rights should not be seen primarily as “a succession of intellectual breakthroughs and revolutionary declarations.” In truth, human rights were only possible “as a result of a fundamental change in the meaning of the

self” that occurred in the 18th century. In particular, Hunt argues that the cultural practice of reading (epistolary) novels, which first became widespread in this period, gave birth to the experience of generalized empathy as a cultural phenomenon, and this rise then spurred the development of ideas of individuality and autonomy, all of which were central to the establishment of the first national and regional human rights movements and regimes. Though the advances of these early human rights regimes were blunted in the course of the nineteenth and early twentieth centuries “as a result of the rise of nationalist, imperialist, socialist, communist, and fascist movements,” they “succeeded in the long run” – almost as an atavistic reaction to the culpability of many of these 'anti-human rights' movements for the horrors of the Second World War.

In closing, it might be noted that as persuasive as Hunt’s culture-based argument may be, there are those who will always claim that the origins of anything usually has a ‘thousand parents.’ One additional parent in this case might be Bartolomé de Las Casas and the other members of the 16th century Salamanca School in Spain. Las Casas’ conclusion that the native peoples of the New World were human beings rather than property marks in many minds the critical transition point between the religiously-tainted emphasis on natural law by medieval churchmen and the world of Hugo Grotius and the human rights revolution that followed. But that is yet another story.

## **Recommended Reading**

### **The international human rights regime today**

The International Bill of Human Rights is usually said to consist of:

[The Universal Declaration of Human Rights \(1948\)](#)

[The International Covenant on Civil and Political Rights \(1966\)](#)

[The International Covenant on Economic, Social and Cultural Rights \(1966\)](#)

The texts of all the other important human rights instruments now extant are [listed by the UN](#), which also provides the following educational videos on human rights ([in English](#) and [Spanish](#)).

## **Partner Content**

[The United Nations Human Rights Council: Issues for Congress](#) . Luisa Blanchfield, Congressional Research Service, 2011.

[Minimalism About Human Rights: The Most We Can Hope For?](#) Joshua Cohen, MIT Center for International Studies (CIS), 2012.

[The European Convention on Human Rights: Its Reach Overseas and its Relationship with the UN Charter](#) . Royal Institute of International Affairs, 2011.

## **Additional Reading**

‘What Are Human Rights? Four Schools of Thought’. Marie-Bénédicte Dembour, *Human Rights Quarterly*, Volume 32, Number 1, February 2010.

‘Righting the World Through Treaties: the Changing Nature and Role of International Agreements in the Global Order’. Michael Bowman, *Legal Information Management*, 7, 2007.

['Foucault's Concept of Power and the Global Discourse of Human Rights'](#). Ivan Manokha, *Global Society*, 23:4, 2009.

Editor's note:

For the rest of our content on *"Laying the Groundwork: The Definition, Scope and Roles of Human Rights,"* check out our [dossier](#) on the topic.

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