

We Shall Overcome (Realism): Internalization of the Human Rights Norm

With rampant violation of the human rights norm, are norms relevant in international politics? What significance do they hold if they do not inform policy decisions? Can anything be done in order to strengthen the normative element of human rights protection on a large scale? Constructivists declare that norms, principles, regimes or ideas are important factors at play in the international system mitigating pure self-interest and power politics that dictate behavior, as per the dominant realist worldview. However, to what extent norms actually influence decision-making is the true test to the relevance of constructivist arguments. Are norms and ideas affecting state interests in any real ways? I will argue that the human rights norm does not have a meaningful impact on policy, while admitting that it does indeed exist in some form. And, in order for it to be significant, it must be internalized beyond the system level.

Realism is not only the pervasive approach in international relations literature but is accurate in describing and anticipating state actions. Constructivists need a genuine response to realism and, in order to do that, norms need to enter into the process of rational decision-making. This could take several forms including increasing costs of norm violation, introducing hegemonic power into the system, or redefining interests in terms other than material. Discussions in the literature analyze the impact of norms, regimes, ideas, or principles on international relations, but do not often take a critical enough look at what is at stake. Realist politics hinder progressive, humanitarian initiatives because of its marriage to power and material capabilities as primary

motivations. In this analysis of the human rights norm, I will explore potential outlets for progress toward overcoming realist constraints. Beyond the academic, rhetorical realist-constructivist distinction in this discussion of norms, there may be larger implications for the human rights movement and any notion of advancement it hopes to make.

I will begin by taking a broad look at constructivist contributions by examining the role that norms are ideally supposed to take in international affairs; theoretically how these ideational variables are situated in the landscape of realism. From here I will plunge into the field of human rights protection, briefly trace its foundations and determine what position it holds today. Given an understanding of what norms should be and the changes that the human rights norm, specifically, aims at implementing, I will move to a thorough investigation into why states constantly and without remorse violate this international standard. This investigation will take the form of an evaluation within realism of material interests and the cost-benefit analysis associated with decision-making. It will be supplemented with a look at the successful, human rights-style norm of racial equality and, more specifically, the international movement to end South African apartheid. In terms of adding to the discourse of norms, I propose a deeper discussion of the internalization of norms and the necessary interaction between domestic and international politics in recognizing the potential for real change.

Hopefully, this will provide insight into what needs to be done to the human rights norm as it stands in an effort to build it into a working, influential structural entity. The technical term ‘structural’ follows Waltz’s conception of the international system in which he lays out the structural components of the system: ordering principles (hierarchy

vs. anarchy), functional differentiation (division of labor), and material capabilities (power). Qualifying each component provides the particular characteristics of the international system. For a norm to be considered a structural entity it will have to influence one or more component on the list above. For instance, a norm could be strong enough to create a sense of hierarchy in the system or it could redistribute or overshadow material interests.

Waltz's neoclassical structural realist conception is the dominant paradigm in international relations theory. As constructivists contribute to the discourse, it is important to understand their contributions not as a full alternative to realism because even constructivists work within this framework. It is not their suggestion that the structure of international interaction is different from that proposed by the realist. But rather, the proposal is to use constructivist methodology to modify the structure of realism, because any attempt to replace it or re-explain it will fall short. Constructivism suggests that there are factors at work that reconstitute interests and affect the structure of the system, without altering it in any drastic way. It is for this reason that realism and constructivism are not mutually exclusive. Realists admit, reluctantly, that norms and ideas shape interests, sometimes; however, they assign minimal weight to such considerations. Constructivists do not deny the primacy of power and material capabilities but highlight the impact that international institutions and regimes can have on policy.

In one respect I will stray from realism and attempt to refute its basis in the section on norm internalization. Realism is steadfast in its analysis strictly on the system

level as it maintains that the unit and individual are relegated in international politics and do not influence decision-making. A departure from the system level of analysis and a deeper understanding of the interaction of the levels could help to actualize the theory behind the norms. In the case of human rights, I mean to suggest that if people start to think with a mindset steeped in a rights-based culture, then state interests will be altered as well.

The interpretation of ‘norms’ that will be used herein is a particularly non-technical sense of the word. Norms are regularly used interchangeably with ideas, rules, principles and institutions, even though the literature makes important distinctions:

Regimes can be defined as sets of implicit or explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Decision-making procedures are prevailing practices for making and implementing collective choice (Krasner, 1982: 186).

While there is a great deal to be said as to the differences and specificity between these terms, this article is not the arena for it. Following Krasner, there is a hierarchy of sorts in saying that norms, principles and decision-making procedures are subsets of regimes and, furthermore, that decision-making procedures appear to be the most rigid. At times I will choose from this list of terms, but do not intend on the separate meanings sometimes attached to them. Most often the language of norms and regimes will be utilized to communicate the understood, yet loosely-adhered-to nature of the “standards of behavior” within human rights.

Some clarification of what I mean by norms, regimes, *et. al.* is necessary, however. For a constructivist to claim that norms and regimes are important variables in the international system, she would have to prove their efficacy in directing policy and mitigating realism. As briefly mentioned above, norms, to be effective, should be able to take the form of a “structural modifier,” in Glenn Snyder’s terms (Snyder, 1996: 169). In defining the term, Snyder explains that structural modifiers are “contextual elements that affect the quality and density of interaction” and are “system-wide influences that are structural in their inherent nature but not potent enough internationally to warrant that designation” (Snyder, 1996: 169). Snyder holds norms and institutions, in his preferred terminology, to a fairly high standard. Norms, in this stricter sense, influence interaction and behavior and, therefore, within a realist framework, they have influenced interests because states interact only to maximize their own utility. The strength of a norm is determined by its ability to shift interest, thereby transforming behavior. If norms do not have this degree of effect on the system, then they are not structural modifiers and are instead something weaker. For my purposes I employ Snyder’s contributions in the current discussion of human rights norms. The bar set by Snyder should be used as a gauge for the human rights movement to determine its progress. If the movement is effectively impacting states’ policies and is a norm in Snyder’s sense of the word, then progress can be declared. If a movement is not modifying the structure of realism, then it is not a norm. In essence, improvements in human rights protection should be reducible to the following quote: “Once the effects of anarchy and power distribution are

established theoretically, outcomes that deviate from these effects may be explainable in terms of norms and institutions that modify them” (Snyder, 1986: 170).

Proving that a human rights norm exists in some form involves tracing its inception back to the systematic exercise of abuse perpetrated by the Nazis during World War II. As the atrocities became fully acknowledged by the international community in the years following the war, an outcry for a just response was heard and answered by the Nuremberg War Crimes Trials of Nazi commanders. Although the illegality of the mass murder during the Holocaust had never been previously codified, the trials symbolized moral outrage, as well as a purely emotional response by the world (Donnelly, 1993: 6). Following Nuremberg, the creation of the United Nations (UN) further exemplified concerns that international consensus would be necessary to address and alleviate future global problems. Shortly thereafter came the drafting and adoption of the Universal Declaration of Human Rights (UDHR) “that provides the most authoritative statement of international human rights norms” (Donnelly, 1993: 7). So if the modern international system had existed for three hundred years, since the Peace of Westphalia in 1648, in the course of only three years (1945-1948) the system went from a loose association consisting of trade relationships and short-term alliances into a structured body to meet in assemblies and committees to discuss common issues. The UN and its offspring “symboliz[e] the existence of a society of states, and beyond it of the element of unity in the political organization of mankind” (Bull, 1977, 176).

This period of rapid growth gave way to a subsequent period of expansion, but at a slower pace. This era included the birth and exercise of the 1966 International Covenant

on Civil and Political Rights, the Human Rights Committee, UN Commission on Human Rights, several regional regimes, other corollary conventions and treaties and an active group of Non-Governmental Organizations (NGOs) like Amnesty International (AI) and Human Rights Watch (Donnelly, 1986). These groups and treaties embody the human rights norm. The UDHR explicitly lists rights that humans have and correlated responsibilities that states have to provide for and protect. The International Covenant on Civil and Political Rights delineates between these rights and social and economic rights to further expand the catalogue. UN bodies, as well as activist NGOs, are mainly in the business of information gathering and reporting. This includes counting bodies after a massacre and keeping track of political prisoners while they are incarcerated. The point is to promote awareness internationally as to dire situations that are in need of immediate attention or to areas that are escalating into larger-scale problems.

Do these groups or their employees directly intervene on behalf of human rights protection? Rarely. Is the research disseminated throughout global culture well enough to have the effect of altering policy decisions? Not really. Is there any relevance to the work these people do? Certainly. The relevance is found foremost in the success watchdog groups have had in securing the releases of political prisoners through their letter-writing campaigns. Because, while the state could very well continue its habits of abuse, at least there is one more innocent person free, the importance of which cannot be understated. There is truth to the power of this type of direct action, even if it is not evident on the system level.

Now that it is established that the norm exists in some form, I will hold the human rights norm up to Snyder's standard of being a structural modifier. This will take the form of examining instances of norm violation. If state action is not at all informed by the human rights regime then the very notion of what it means to be a norm should be reconsidered.

The question of human rights norm violation is elusive because, as seen above, there is international consensus behind efforts to universalize human rights and apply these rights in all countries, yet in most cases states act as if there are no such doctrines at all. This "organized hypocrisy" occurs in Western developed nations, as well as in more notoriously corrupt states throughout the developing world (Krasner quoted in Cardenas, 2004: 219). In order to understand state motivation, we turn back to realism. If an action is considered in state interest, is rationally attainable and does not involve costs that outweigh the benefits, then the calculus allows for such an action. I will cut into the realist argument by determining if there are any costs associated with human rights violations. Foremost the notion of economic costs would deter states from acting. If certain domestic policies would be offensive enough to force trading partners to sever ties, then this would represent an example of economic costs. If actions were so egregious to warrant the imposition of multilateral sanctions against a target state thereby besieging the economy, this would be another example of economic costs. Unfortunately we see few, if any, substantial cases of costs associated with human rights violation.

China's Most Favored Nation (MFN) relationship with the United States (US) is the most glaring example of this contradiction. Every year when this status is up for

renewal, the US State Department makes a statement concerned about the human rights situation in China and emptily threatens to revoke MFN status. Every year the relationship is consecrated and within months Amnesty International issues its annual country report on China citing rampant abuse at all levels. It is as if this favorable trade status is a reward to China for violating said regime. The fault lies exclusively on the side of the US because it has the responsibility to assess costs to the violation, but fails to do so. However, it is then the fault of other states for not subsequently bearing down on the US for its failure to act on China. Synchronized non-compliance shares similar characteristics with the style of compliance strived for by the human rights norm. In other words, in order for a norm to be successful, states must be on board to see to it that the norm is adhered to. If all states understand that the norm is going to be universally ignored, then the norm is not meaningful. This cycle is not a coincidence, but a coordinated effort and Krasner's term "organized" is all too appropriate. If all states make verbal agreements to support human rights and all implicitly understand this norm to be vacuous and rhetorical, then all are free to violate it at will.

The threat of economic sanctions is thrown around when states are dissatisfied with the behavior of other states. It is utilized very rarely and even in those rare cases is it rarely effective in alleviating human rights concerns. Sanctions on Iraq and Cuba serve as examples of its ineffectiveness. Installed in 1990 after Iraq's encroachment on Kuwait, the sanctions stood until Saddam Hussein was toppled in 2003 and within that time resulted in "the early deaths of countless people, particularly children, and to widespread hardship" (AIUSA, 2003). Hussein, while in power, did nothing to change his repression

and torture of the Iraqi people, yet the UN-imposed sanctions continued. Now that a military occupation has replaced Hussein's administration, AI fears that the crippling effect that sanctions had on Iraq will only be magnified as further human rights issues persist (AIUSA, 2003).

Cuba is another example with a much longer history of sanctions. Imposed by the US in 1960, the sanctions continue today as remnants of obsolete Cold War policy. Not only are they ineffective with respect to improvement in policy, but besides the continual "curtail[ing] of extensive social mobilization while committing ongoing human rights abuses," the sanctions are manipulated by "Castro to support and sustain some measure of regime legitimacy" (Cardenas, 2004: 226). He uses the sanctions to vilify the West and points out how it is the fault of those imposing the sanctions that Cuba's economy is crippled. Some evidence points to the idea that not only have sanctions not weakened Castro nor improved human rights conditions, but they have strengthened the leader and worsened conditions. Through the cases of Iraq and Cuba, it is difficult to argue that economic sanctions are a viable option in an attempt to increase the costs of norm violation. However, international relations analysts do tell one success story.

The international movement to end apartheid in South Africa is the poster-child for the constructivist response to realism. An examination of the process by which multilateral sanctions were enforced on the white-minority leadership in South Africa exemplifies how forces other than material capabilities can act on the system level. At the heart of the criticism of realism is the influence of exogenously formed interests that dictated policy during the mid-1980s against South Africa. The United States was the last

major power to sign on against apartheid, mostly because supporting the current minority-rule government served US strategic and economic interests very well: “Access to markets and minerals seemed assured under conservative South African governments since white-minority rule guaranteed an alliance against communist expansion in the region” (Klotz, 1995: 454). Clearly defined, these were US interests in South Africa; a realist justification for avoidance on the apartheid issue would prioritize the security and material benefits to this approach and dismiss any notion of a moral obligation to justice in the region.

What, then, brought about this policy shift? Realists do not allow for changing interests because interests are given and not open to scrutiny. (This is where an eavesdropping constructivist conveniently enters the conversation.) Klotz’s view is that there were factors at play on the domestic level of US politics that made “an explicit connection between US racial issues and the institutionalized racism in South Africa” (Klotz, 1995: 466). This synthesis of movements “demonstrates that global norms can affect reconstitution of interests directly through transnational processes, without interstate interaction or multilateral coercion” (Klotz, 1995: 462). This is to say that the shift in US policy was still interest-based, except interests had been changed due to various pressures and costs introduced into the equation. Mounting tension that developed since the 1960s on the domestic front forced the Reagan administration into taking a stance on the issue. American politicians “recognized the social costs of abrogating this norm of racial equality” and “had become sensitized to the potentially

damaging political linkage between tolerance for apartheid and tolerance of racism at home” (Klotz, 1995: 477, 467).

The implications of this move are crucial to the realist-constructivist dialogue but the conversation remains within the dominant view. It is inaccurate and inappropriate to associate the US enforcement of sanctions against South Africa with any moral enlightenment. The domestic civil rights movement and the transnational movement for racial equality did not convince the administration and Congress that black South Africans required liberation because their human rights were being violated, even though the movement was framed and driven by concepts of justice. However, pragmatically speaking, whether the policy change was brought about out of altruistic purpose or out of fear for the jobs of the politicians, is irrelevant. What is relevant is that interests were reformulated, thereby overcoming realist constraints on progress.

The interplay of domestic and international politics has been addressed slightly in the prior discussion of South Africa, but needs further examination in many respects. Neoclassical structural realism understands and explains international interaction as the relationships of states, without attention paid to the other two units of analysis. States are the means of organization of societies and act to “pursue the interest of the nation as a whole, and not just those of particular powerful groups within the community” (Grieco, 1996: 166). This consistency is a stronghold of the realist system and maintains state interest without yielding to domestic factional pressure. In a general sense, as different political parties cycle in and out of office, state interest remains the same and it would be to a detriment of the power of the state for interests to fluctuate. It is in the face of this

realist tenet that the case of South Africa is such a tragic anomaly. Structural realism does not allow for influence from domestic entities. Even to allow for a relegated position for international norms, the “diffusion” of these norms to the two lower levels of analysis is outside the nature of realism (Klotz, 1995: 477). As rare as the South Africa/US case is, the potential for other such instances do exist and are unexplainable within realism.

Another question with respect to the domestic/international distinction is under whose auspices does human rights violation fall? *Prima facie*, protection is the responsibility of the state as the state is formed in order to protect the welfare of its inhabitants. However, the internationalization of the human rights regime claims that no matter within whose boundaries one presides, humans are entitled to the same rights, thereby breaking down territorial primacy. I reject the claim that “human rights are ultimately a profoundly *national*- not international- issue” (Donnelly, 1986: 616). This notion is reminiscent of an excuse that an abusive husband would make after assaulting his wife: what goes on in this house is a private matter. Domestic violence is wrong no matter in whose house it occurs; the same is true of human rights abuse. The institution of sovereignty is used as an excuse to justify many things, including human rights violations. It is as if the borders that encompass a state provide a cloak of secrecy and privilege to act as a leader sees fit, regardless of international norms and standards.

It is this weakness of the human rights norm that allows for rampant violations in massive quantities to persist. How can it be argued that the international community learned anything from the atrocities of Nazi Germany if genocides continue to be perpetrated? Only in the span of the last ten years have we witnessed unthinkable acts

committed against large segments of the populations in Kosovo, Rwanda and recently the Sudan. If the human rights norm had any relevance, there would have been enormous public outcry in the community at the time these crimes were being committed, and not in the aftermath once body counts have already reached baffling heights. Is the best we can do write and publish a report about an atrocity in hindsight and warn against future occurrences?

I suggest a re-creation of the norm of racial equality superimposed on the human rights regime. In the case of the movement to end South African apartheid we saw genuine moral outrage amongst the people of the world motivate governments to act accordingly. It was the first and only case in modern history of individuals shaping state interest to such an extent as to actually dissuade the state from acting toward strategic or economic ends (this occurred only after years of repression and violence against black South Africans). To reiterate, there was no ethical awakening on the parts of the policy makers, as much as we would like to have seen one. They responded to pressures placed on them by their constituencies and feared for their own political stability. In an ideal situation where the human rights norm was perfectly relevant, after news breaks of an atrocity of any scope, people rise up and demand the matter be addressed through justice.

“Most governments that respect human rights have been created not from the top down, but from the bottom up” (Donnelly, 1986: 617). This quote speaks to the very core of any notion of progress as it addresses popular support for human rights protection. Just like any revolutionary movement, an active mass base is essential to the project. To be

clear, the international human rights movement is revolutionary as it seeks to change the very foundations upon which states define their interests.

“Who can *force* a government to respect human rights? The only plausible candidates are the people whose rights are at stake” (Donnelly, 1986: 617). Once the international norm is translated to the domestic level and subsequently internalized by the very people who are at risk, only then can we begin to speak of a human rights culture. Academicians writing about such a culture from atop an ivory tower remains meaningless until it is disseminated to the masses that are directly effected by any violation or threat thereof.

But before everyone takes to the streets, maybe this discussion is a little premature. Mark Zacher, in discussing the norm of territorial integrity, proposes a stage-theory of norm development. He traces, over the course of almost sixty years and marked by turning points in international relations history, the stages of *emergence*, *acceptance* and *institutionalization* (Zacher, 2001: 236-7). Zacher does not make any normative statements to the effect that norms necessarily do or should undergo this process, only that the norm of territorial integrity developed over time. Jack Donnelly on the subject of the human rights norm describes its current state as one of “promotion,” and is skeptical as to the potential for any further growth. He sees the largest development period behind us and presumes that “we can expect states to resist further growth and efforts to cross over to implementation and enforcement activities” (Donnelly, 1986: 639). While Donnelly’s view may be historically accurate, it eliminates the potential for progress and is defeatist in the face of the human rights initiative.

Given time and the proper nourishment, the human rights regime can become institutionalized and enforceable. The progress since World War II is easily recognizable, but it is sometimes difficult to understand why further progress cannot be expedited. I believe that it is in part the responsibility of the literature to be outwardly critical of the status quo until actual, forward movement has been determined. Simple exposition of the way things are is only minimally useful; what is of the utmost utility is to drive the discourse in the direction toward the realization of universal human rights protection.

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