Not dead yet – human rights in an illiberal world order

The international human rights regime is a key feature of the existing global order, most prominently in the way that order is given its multilateral expression at the United Nations (UN). The UN Charter made the promotion of human rights a key purpose of the UN, and all UN Member States commit to the basic principle that the treatment of their own citizenry is a legitimate subject of international concern. This basic commitment anchors a complex structure of specific treaty and non-treaty undertakings, overseen by a variety of international institutions and mechanisms, and covering a wide range of human rights.

The question, therefore, arises: if the current rules-based, liberal order, with its commitment to multilateralism, is in crisis, must global attention to human rights similarly decline? Are we witnessing, in the words of one author, “the endtimes of human rights”?¹

For many, the answer is yes.² Indeed, an alleged growing disregard at the international level for human rights principles is cited as a prime example of the changing world order. Further, the fact that some emerging powers, China in particular, have authoritarian regimes is additional proof for many of an inevitable, diminished concern for human rights. In short, the decline of the west means less global attention to human rights, and a weakened capacity in multilateral institutions to defend these rights.

This paper will take issue with this pessimistic view, putting forth two main arguments. First, the decline thesis assumes a necessary connection between western, liberal internationalism and global human rights, when in fact it is highly contingent; international concern for human rights has never been solely, or even at times mostly, dependent on the commitment of western powers to a liberal international order.³ Even a cursory examination of the historical record shows that many non-western powers (liberal or not) played crucial roles in establishing and maintaining human rights on the global agenda, and many continue to do so.⁴

³ One could go further and argue that there is not – as too often assumed – a simple correlation between classical liberal thinking and international human rights. The latter’s inclusion of collective rights like self-determination, and its deep preoccupation with economic and social rights, and the right to development, sit awkwardly with aspects of classical liberal thought. But this argument will not be pursued here.
Moreover, the priority given to global human rights by several western powers has waxed and waned. Indeed, inconsistency might be said to be one of the defining features of western activity in this area of foreign policy.

Second, the pessimistic position assumes a previous, triumphant era for human rights (that is now past, or fading), but doesn’t set its benchmarks. To be coherent, assertions of declining attention to and/or disregard for human rights principles must set some measurable starting point. That is, if we are entering the human rights “endtimes”, what did the good times look like?

One benchmark might focus on levels of respect for key human rights worldwide; another might focus on the scope and robustness of key international human rights institutions and mechanisms. There are difficulties in measuring progress (or backsliding) in both areas, but the evidence available simply doesn’t support the pessimists’ case. There are exceptions, of course, but in relation to most human rights, we continue to see progress – slow, somewhat fitful, and often fragile, but progress nonetheless. Further, global human rights institutions and mechanisms continue to expand in number and scope, as does international law in this area. While one may question their efficacy, an objective view would conclude that global human rights institutions are at least better equipped today than in the past to confront state misbehavior.

Together, these arguments suggest a more optimistic account of the place of human rights in the new and emerging world order, one that is not solely or even mostly dependent on the prop of western, liberal powers. No doubt, the rise of new powers (some with an authoritarian character) will impact on the global human rights regime. Already, one can see this influence both in the types of human rights issues that command global attention – for example, greater attention to economic and social rights – and in some of the working methods of global human rights bodies. But its demise is far from inevitable and, indeed, the upheaval created by new power dynamics will in itself create opportunities.

There is, in short, a crucial role for those powers ostensibly committed to both multilateralism and human rights to identify and craft new approaches to sustaining the global rights regime.

Human rights – a western, liberal project?

In today’s world, it is perhaps easy to equate a liberal, internationalist-oriented foreign policy with a commitment to promoting human rights in the world. In the post-Cold War era, efforts to ban landmines and cluster munitions, and new treaties on child soldiers and torture prevention all had prominent western support; so too the successful effort to raise civilian protection issues in the Security Council, and to push generally for a more robust Security Council response to actual or threatened mass atrocity. Western countries took the lead in sanctioning a number of abusive regimes, including Myanmar, Sudan, and Iran.

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However, in noting such efforts, we shouldn’t forget the many cases in which prominent western, liberal powers were not supportive of advancing human rights at the global level. Consider the United States (US), for some the most important promoter (at least historically) of the global liberal order. At times, it has certainly championed human rights abroad, and worked to strengthen multilateral institutions promoting these rights. Both Democratic and Republican administrations have claimed the promotion of human rights as key to their foreign policies. But, in practice, the US has been a fickle ally of those seeking to advance global human rights.

The US has criticized human rights abuses abroad in a notoriously selective manner, a characteristic of its foreign policy in this area that is almost as evident post-Cold War as at the height of its ideological stand-off with the Soviet Bloc. Similarly, under both Democratic and Republican administrations (though perhaps more pronounced in the latter case) the US blew hot and cold in regards to support for multilateral human rights regimes – especially those under UN auspices. In May 2001, perceived US hostility to UN human rights action was one factor that led to it losing its seat on the intergovernmental UN Commission on Human Rights. Under the Trump administration, the US resigned its seat on the Commission’s successor, the UN Human Rights Council. Further, the US, virtually alone among western powers, has never supported UN action on economic and social rights, and at times has actively worked to block progress on these rights at the UN. Under George W. Bush, the US sought to weaken the newly-established International Criminal Court (ICC), a policy renewed in 2018 by John Bolton, President Trump’s National Security Adviser. Both Republican and Democratic administrations opposed important efforts to ban landmines and cluster munitions. For some this less than fulsome support for human rights abroad is explainable in terms of the US’ global security commitments, which might justifiably take precedence. But even if true, it doesn’t explain the longstanding US wariness to sign on to global human rights commitments. This extends beyond the ICC, cluster munitions or landmines. The US has ratified only three of the nine major UN human rights treaties – all three of them only in the mid-1990s, and notably with important reservations; it also has not ratified the protocols that strengthened the enforcement of these agreements.

In short, the leading liberal internationalist power has itself shown, at best, a conditional commitment to global human rights. The same could be said of other western powers, particularly France and the United Kingdom. Neither were particularly helpful – and indeed at

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times quite obstructive – in the first three decades of UN human rights action as they sought to protect themselves from UN scrutiny of their colonial record.

But what of the middle powers, those smaller, (largely) western countries alleged to be the faithful defenders of the rules-based global order? Certainly, in the post-Cold War era, the Scandinavian countries, Canada, the Netherlands, Switzerland and others have been generally reliable supporters of the global human rights agenda. But again, this is by no means an automatic relationship. Changes in government and/or foreign policy orientation may dramatically alter a middle power’s view regarding promoting human rights abroad, or its commitment to a strong, global human rights regime.

The example of Canada is illustrative. The official website of Global Affairs Canada introduces its human rights work with the pronouncement that:

Canada has been a consistently strong voice for the protection of human rights and the advancement of democratic values. This started with our central role in the drafting of the Universal Declaration of Human Rights [UDHR] in 1947-1948 to our work at the United Nations today.\(^\text{10}\)

In fact, Canada played almost no role at all in the drafting of the UDHR, and largely ignored the UN’s human rights efforts until the late 1960s. Its active human rights foreign policy only took off in the late 1970s. True, a Canadian, John Humphrey, was a main author of the UDHR, and from 1947 until 1966 headed the small UN human rights department. But he was not a seconded Canadian diplomat nor did his appointment result from Canadian government efforts on his behalf.\(^\text{11}\) Canada was in fact the only western country to abstain in the first UN vote on the adoption of the UDHR, a decision quickly, although reluctantly, reversed because it placed Canada alongside the Soviet Union, its allies and Saudi Arabia.\(^\text{12}\)

While the promotion of human rights found its way into the stated foreign policy priorities of successive Canadian government from the 1980s onwards, different governments paid more or less attention to human rights in practice. For example, the Conservative government from 2006 – 2015 was rather hostile towards the broad UN human rights agenda, and focused narrowly on using the UN to criticize a select few countries (e.g. Iran, North Korea, Venezuela). It also disparaged the UN’s independent human rights experts when they sought to criticize any aspect of Canadian policy (for example, concerning the treatment of indigenous people, or as regards racial discrimination), substantially reduced Canadian financial support to the Office of the UN High Commissioner for Human Rights, and refused to sign important, new UN human rights

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treaties. Also, both Liberal and Conservative governments have consistently refused, like the US, to ratify the OAS regional human rights treaty (the American Convention on Human Rights) and thus they stand outside the jurisdiction of the Inter-American Court of Human Rights.13

Other countries traditionally cited as reliable proponents of liberal internationalism, including Denmark and the Netherlands, have likewise not always been consistent and enthusiastic supporters of global human rights, even as they have maintained a commitment to promoting a rules-based international order.14 Pointing to inconsistencies is not to deny that middle power support has at times been crucial to building and maintaining the global human rights regime. Rather, the point is simply to establish that support for a global rules-based international order, and even a commitment to multilateralism, do not necessarily entail consistent support for the notion that such an order should defend and promote human rights.

Further, a weakening of western power does not necessarily entail a weakening of the global human rights regime, because that regime has had many props, not all of them western or even ‘liberal’. The active participation of non-western countries in the adoption of the 1948 Universal Declaration of Human Rights (UDHR) is well-documented.15 Perhaps less well-known is the role non-western countries played in pushing through other key human rights documents, for example the 1948 Genocide Convention (Convention for the Prevention and Punishment of the Crime of Genocide). Negotiations on the Convention began in the immediate aftermath of the Second World War, but quickly became bogged down in emerging Cold War politics. The original draft of the Convention, prepared by Rafaël Lemkin who had first used and described the term ‘genocide’, included a wider definition of the term (incorporating cultural genocide) and strong enforcement measures, including through the creation of an international penal tribunal and making genocide a crime subject to universal jurisdiction. Western powers including the United States, the United Kingdom, Canada, Australia, Belgium, France and others sought to either forestall debate on the Convention or, if that didn’t work, adopt a weaker draft. The colonial powers feared the potential scope of the Convention might extend to both historical and current colonial practices, and the US was wary of any new international penal jurisdiction. Lemkin was at the forefront of lobbying for the Convention and to get it adopted in December 1948, he relied on the support of non-western countries including Pakistan, Egypt, China, Iran, Venezuela, and other Latin American countries.16 Indeed, the west’s two leading powers, the UK and US, did not ratify the convention for decades (the UK in 1970, the US only in 1988).

Less well-known too, is the role of non-western and in particular newly-independent countries in the two decades long effort to turn the aspirational language of the UDHR into binding international treaty commitments via the two International Covenants – on Civil and Political, and Economic and Social Rights, respectively. Although this work began at the UN Commission on Human Rights in the immediate aftermath of adopting the UDHR, it became bogged down in Cold War disputes and throughout the 1950s the annual negotiations made little progress. Recent research has highlighted how the effort was revitalized by a group of largely southern countries including notably Costa Rica, Ghana, Jamaica, Liberia, the Philippines and Senegal. They led efforts to make racial discrimination and religious intolerance key items on the UN human rights agenda, and in doing so moved the broader debate forward (and led to the first major UN human rights treaty, in 1965, on eliminating racial discrimination). These countries also first proposed the UN treaty body system to monitor human rights treaties, and first suggested UN fact-finding teams and the establishment of national human rights commissions as important implementation tools.17

Further, it is also the case that many non-western countries routinely do support and vote in favour of country-specific resolutions in both the Human Rights Council and the General Assembly. In recent years, resolutions sanctioning the human rights record in Iran, Syria, North Korea, South Sudan and Myanmar have been passed with considerable (and in some cases, overwhelming) non-western support, from all major world regions. This is not surprising, nor new. Without such support, western states (never mind just the middle powers), simply don’t have the votes required in either body to win such votes. This has been the case for several decades.

Many non-western countries also play an active role in the Universal Periodic Review (UPR) process carried out by the Human Rights Council. This “peer review” mechanism was established in 2007, and under it each UN Member State is subject, every four years, to a public examination by other states of its human rights record. Non-western countries routinely raise questions regarding human rights practices in other countries during UPR reviews. States from Asia, Latin America and Africa accounted for over 50% of the recommendations for reform or action to countries under review. Although western countries (including especially the middle powers) were all in the top rankings of those countries making recommendations, so too were Brazil, Mexico, and Uruguay. 18 Additionally, in regional organizations, states have acted to sanction the human rights record of states within the region. In the African Union (AU), numerous resolutions have been passed condemning human rights abuses in specific countries, including Burundi, Democratic Republic of Congo, the Gambia, Eritrea, Central African Republic, Libya, and Togo.

Many more examples of non-western support for promoting human rights both multilaterally and bilaterally could be cited. African opposition to the International Criminal Court is routinely

18 UPR-Info, a Geneva-based research centre, maintains a full database of all UPR-related information, including a list of all questions asked, or recommendations made, by each country. It can be consulted at https://www.upr-info.org/database/.
cited as an example of the waning influence of human rights. Yet, less commented on is the fact that the widespread support of African governments for a strong court, with an independent prosecutor, was crucial in the negotiations leading to the adoption of the Rome Statute in 1998. African governments were among those quickly ratifying the statute – 33 off 55 African countries have done so. Although a number of African governments, and the African Union, have criticized the Court (largely based on the contested claim that it is unduly focused on crimes in Africa), only one African country has withdrawn its ratification. Further, a number of African countries, including Nigeria, continue to defend the Court’s role.

Of course, the support of non-western states for the global human rights regime is subject to a range of political and economic influences, and is deeply inconsistent. The UN’s regional groups system is a particular problem, as a misplaced group solidarity, especially evident in Africa, often guides voting decisions in bodies like the UN Human Rights Council. Yet it is not simply the case of African, Asian or Latin American countries deciding to follow a western lead on an issue, or bowing to Chinese economic pressure not to do so. On a number of issues, countries from these regions initiate action on particular issues, notwithstanding their often-over-stretched diplomatic capacity to do so. Thus, for example, a small group of African and Latin American states took the lead in the establishment of a UN working group in 2016 to draft a new treaty on human rights and business (with western states largely opposing the initiative).

**Measuring the ‘endtimes’**

The pessimistic view asserts a declining global commitment to human rights. But how is this measured, and what exactly is being measured? As noted earlier, the decline could refer to the belief that human rights abuses are increasing worldwide, or in the conviction that the global regime to prevent such abuses is weakening, or both. Indeed, Chinese and Russian vetoes in the Security Council are often cited alongside growing restrictions on civil society activism as evidence for weakened global commitment to human rights.

The difficulties of measuring progress on respect for human rights are well-documented. To examine these in detail here is beyond the scope of this analysis. In summary, there are definitional disputes concerning what gets counted (too often, only a narrow range of civil and political rights), and methodological disputes about what sources to rely on, and how to account for variances in the availability of information. Increases in the reported incidence of police torture may, for example, reflect better reporting and a more transparent and accountable police

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19 Rieff, “The End of Human Rights?”.  
force – not an actual increase in the resort to torture or ill-treatment. There is still no generally accepted dataset that measures progress worldwide on a representative range of human rights.22

Having said that, the most recent, comprehensive treatment of the subject suggests significant progress is being made on many economic and social rights, and – with some exceptions – slow and steady progress is evident on a range of civil and political rights.23 There is certainly backsliding in several countries on some rights, including in particular free expression, assembly and association rights, and some political freedoms. But measured over the long term, there is undoubtedly progress. Of course, that it should continue is hardly assured, and the rise of nativist and authoritarian regimes is clearly a threat; but so too are emerging technologies, a continued prioritization of security, and global environmental threats.

In answering the question of whether declining western power is leading to declining UN interest in – and action on – human rights, two metrics might be used: the number of UN mechanisms and the range of human rights issues they confront; and the intrusiveness of the mechanisms on state sovereignty. The efficacy of these various UN procedures is also relevant, though harder to measure.

In regards to the range and scope of global human rights institutions and mechanisms, the post-Cold War period has seen a dramatic expansion, much of it too in the last 15 years – or in any case after the supposed apex of western power in the 1990s. Prior to the establishment of the UN Human Rights Council in 2006, the human rights record of particular states was only publicly debated and recommendations made in relatively few cases. There was an increased resort to country-specific resolutions in the 1990s, but action still depended on passing a resolution in the UN Commission on Human Rights, which powerful states, or their allies, usually avoided.24 As noted earlier, from 2007, with the establishment of the Universal Periodic Review (UPR), every UN Member State is subject once every four years to public scrutiny of its human rights record in which all other states may take part. The UPR is fraught with problems, poorly-resourced and too often used politically by states to try and shame their adversaries (and praise their friends). But in questioning its efficacy, one should recall that when western powers held much greater sway in the Council’s predecessor, the UN Commission on Human Rights, many countries avoided any scrutiny at all.

23 Sikkink, Evidence for Hope. Also, with particular emphasis on economic and social rights, see Sakiko Fukuda-Parr, Terra Lawson-Remer and Susan Randolph Fulfilling Economic and Social Rights, (Oxford: Oxford University Press, 2015).
24 For example, despite widespread condemnation by many countries, China’s violent suppression of dissent in Tiananmen Square in 1989 was never criticized in a UN human rights resolution – notwithstanding the greater sway western powers held in UN human rights bodies at the time and in the years immediately following.
The UN “Special Procedures” refers to a range of mechanisms established and mandated by the UN Human Rights Council to monitor state compliance with specific rights – freedom of assembly, protection against torture, the right to adequate housing, etc. Mandate holders are typically individuals (“Independent Experts” or “Special Rapporteurs”) but in some cases “working groups” are established. The first Special Procedure was established in 1980, and as recently as 2000 there were about 20 such mandates. Today, there are well over 50, with almost a third of these appointed since 2010. New special procedures’ mandates are created each year, on a wide range of human rights issues, including recently on transitional justice and accountability, on the right to a healthy environment, and on the rights of highly marginalized groups including lepers, and those with albinism, and discrimination based on sexual orientation or gender identity. The latter was highly controversial, and opposed by several African and Asian states, but was established with the strong support and votes of Latin American states and Mongolia, Vietnam and Korea.

Similarly, and importantly for the question of intrusiveness, in recent years the UN Human Rights Council has greatly expanded the use of “Commissions of Inquiry” with country-specific mandates. The commissions are tasked typically to investigate and report on systematic human rights abuses and international crimes, including genocide, war crimes and crimes against humanity. They are often viewed as a prelude to the involvement of the International Criminal Court (as happened with commissions on Libya and Darfur). Currently, five such commissions are active and eight have been concluded just in the past decade. Prior to the establishment of the Human Rights Council in 2006, only a handful of such commissions had been set up in the entire 60-year history of the Commission on Human Rights.

The most recent session of the Human Rights Council, in March 2018, adopted over 60% of its resolutions by consensus, including on such controversial subjects as privacy rights, freedom of religion, cultural and minority rights, and on countries including North Korea and South Sudan.

For some, the relative activity of the UN Human Rights Council might be a poor indicator of the strength of the global human rights regime. After all, it is a subsidiary UN body, with no real sanctioning power, and apt to pass any number of non-implementable UN resolutions. Yet, it is not the only UN body that has expanded the scope of its human rights concerns. The World Health Organization, the UN Refugee Agency, the WTO, the UN Environmental Program

25 A full list of both thematic and country-specific Special Procedures can be found at http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx (accessed September 10, 2018).
26 The list of active commissions and ones recently concluded, and their reports, can be found at http://www.ohchr.org/EN/HRBodies/HRC/Pages/COIs.aspx (accessed September 10, 2018).
(overseeing climate change negotiations).[^29] UNICEF, and others have all in recent years shown much greater attention to human rights issues in their specific fields. This “mainstreaming” of human rights was first pushed by UN Secretary-General Kofi Annan in the late 1990s, and it has certainly met both bureaucratic and political opposition. Nevertheless, human rights concerns (or “rights-based approaches” in UN parlance) have effectively colonized many aspects of UN policy and programming outside the relatively small, dedicated UN human rights program.[^30]

This extends to bodies that do, relatively-speaking, carry some clout in the UN system, in particular the Security Council. For its first four decades, the Security Council barely touched on human rights issues. Only in the 1990s did the Security Council begin to refer more regularly to human rights concerns in its resolutions. Since then it has developed numerous techniques (short of authorizing military force) to bring pressure to bear to halt widespread human rights abuse. These include, in addition to the passing of condemning resolutions, the appointment of Commissions of Inquiry, targeted financial and travel restrictions on named human rights abusers, on-site visits (leading to reports) by Security Council ambassadors, specialized working groups to scrutinize country adherence to particular standards (e.g. use of child soldiers), routinely mandating civilian protection and human rights monitoring functions to UN peace support operations, and using its authority to refer situations to the International Criminal Court. Of course, great power disagreement often prevents the full use of these techniques. But the (rightly) notorious cases of Security Council inaction obscure the many cases where the Council has acted on human rights issues. Russian and Chinese obstructionism in the Security Council is routinely cited, and it is true they have blocked important efforts to end widespread human rights abuse in Syria, Myanmar and elsewhere. Nevertheless, taking a longer perspective, there has been a slow but steady expansion of the Council’s willingness to act on human rights, even if this is often framed in civilian protection concerns, or breaches of international humanitarian law.[^31]

Treaty ratification might be another indicator of the level of state commitment to global human rights. The impact of such ratification on a state’s actual human rights performance is disputed among scholars, but that debate need not be reviewed here. For surely, if there were a waning commitment to global human rights in a post-western world order, one would expect to see waning interest in signing and ratifying international treaties regardless of how impactful that action might be. Indeed, a clear indicator for a weakened commitment might be whether states are withdrawing from international human rights agreements. Although several states have over the past years threatened such action, it has rarely happened. The trend, in fact, is in the opposite

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direction with ratification rates of human rights treaties continuing to rise. The two international covenants have been ratified by almost 90% of UN Member States, and for treaties on eliminating gender and racial discrimination the rate is even higher.32

Some might argue this reflects the impact of previous ratification campaigns, when human rights allegedly won greater support. If we look, however, only at the five UN human rights-related treaties and/or protocols negotiated and opened for signature and ratification in the past 15 years (Convention against Enforced Disappearances, Convention on the Rights of Persons with Disabilities, Optional Protocol to the Convention against Torture, Convention on Cluster Munitions and the Arms Trade Treaty), in each case over 100 states have already ratified or signed the treaty (signature indicating an intent to ratify). One could push the argument further and note that the fact that new human rights treaties continue to be negotiated and agreed on by states, at both a global and regional level, is in itself an indication that the human rights regime is hardly in decline.

When ratifying a treaty, a state may make certain reservations, indicating for example that it interprets a particular provision in a certain way, or that it will not be bound by a particular provision. The validity of such reservations to human rights treaties is debated by both states and international lawyers, but the fact is that in earlier periods of ratification many states did make such reservations. The list of reservations to the widely ratified Convention on the Elimination of Discrimination against Women, for example, is lengthy. One would expect that waning global support for human rights would solidify the positions of those states that had made reservations: they would be better able to brush aside pressure from UN bodies, other states, or NGOs, to lift such reservations. Again, however, the trend is in the opposite direction. A comprehensive study noted that in recent years there is not only a decreased resort to reservations for new ratifications, but also a clear increase in the frequency with which states are lifting or withdrawing existing reservations to human rights treaties. Importantly, in many cases those reservations that are being withdrawn had a religious-based justification.33

**Middle power moves**

This paper has put forward a less pessimistic reading of the future of human rights on the global agenda. If the analysis is correct, the question for middle power countries is not one of how to retrench around and defend the status quo, but rather how to shape and advance a new human rights agenda, better attuned to a new global politics.

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32 The nine core UN human rights treaties, their protocols, and links to lists of ratifying states can be found at [http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx) (accessed September 10, 2018).

If the rise of new powers is unlikely to end global concern for human rights, it will certainly impact on the manner in which human rights are discussed and acted on in global forums like the UN. Some new trends are already apparent: there is less appetite, other than in situations of acute human rights crises, for singling out particular countries to name and shame via UN resolutions; human rights aid conditionality is out of favour; “south-south” partnerships and dialogues are preferred over those driven by the north; the new human rights concerns gaining attention are often those linked to inequities in the global economic order, or where developing countries feel they are at a power disadvantage (for example, as regards the human rights impact of climate change); and greater emphasis is placed on economic and social rights. It is also the case that China, in particular, is placing greater emphasis on dialogue and partnership, rather than scrutiny, reporting and accountability, as preferred methods for global action on human rights.

These trends in themselves are not necessarily worrisome. The efficacy of name and shame tactics at the UN is hardly clear-cut; aid conditionality too is a blunt tool of limited value. And given the scale and severity of human rights abuse suffered by those living in poverty, a greater focus on global inequities and economic and social rights should be welcomed. China’s preference for dialogue over criticism is worrisome if pushed to the limit – so that we return to the Cold War days when only pariah states were sanctioned by UN human rights bodies. That may well be China’s intention, although its voting record at the UN on human rights doesn’t unambiguously support such a reading.

One clear opportunity for countries like Canada is to take economic and social rights more seriously. Although, as noted above, the US has never signed on to this half of the human rights agenda, Canada and other key middle powers have ratified the International Covenant on Economic, Social and Cultural Rights, and often support UN initiatives on these rights. But it’s fair to say this support is lukewarm, and one consequence is that economic and social rights get far less attention in UN bodies than civil and political rights. Pushing to increase attention to and meaningful action on these rights need not imply a downgrading of support for or attention to civil and political rights. Indeed, properly understood, rights are indivisible and the Cold War categorization of rights often makes little sense. Thus, the right to education is of crucial importance to the effective exercise of a range of civil and political liberties, including a free press, political participation, and free expression. Likewise, focusing on girls’ education not only fulfils that right, but is part of broader gender equality efforts. Rights to water and adequate housing are increasingly being cited as essential to rights to security and indeed the right to life itself.

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As noted, Canada and other middle powers do support many economic and social rights initiatives already. The challenge is to do so in ways that go beyond development aid programming, and show real support for the legal protection and accountability aspects of these rights in the same way that is routinely done for civil and political rights.\(^{37}\) A related area for action by middle powers are the UN’s Sustainable Development Goals (SDGs). Compared to their predecessors, these goals (and their related targets) more fully equate to a wide range of both civil and political and economic and social rights. In many instances, progress to achieve the SDGs can be directly equated to progress on implementing specific rights. All countries signed on to the SDGs and the effort to achieve them is already attracting considerable donor support. Where progress on specific rights is blocked or bogged down in UN human rights bodies, it may be possible to stimulate international action via the SDGs.\(^{38}\) Of course, these are political commitments and include weak accountability mechanisms. They offer little in the way of an effective response to pressing human rights crises like in Syria or Myanmar. But the SDGs do offer many opportunities for advancing on women’s rights, legal empowerment, tenure and land security rights, and on many other issues.

Another opportunity lies in forming a coalition of states to back reform of the UN human rights system. Its steady expansion (noted above) has led to much duplication and overlap, and while many new mandates are created, funding lags far behind. Human rights are routinely cited as one of the UN’s three key pillars (alongside development, and peace and security), yet the UN human rights program receives just 3% of the UN’s regular budget. There are now 9 major UN human rights treaty bodies, and states are obliged to report periodically to each. Even countries with experienced bureaucracies find this reporting a burden, and the system is seriously backlogged. Although the UPR process (discussed above) is a step forward, it too suffers from being poorly resourced: to meet restrictions on meeting times, states get 3 minutes (sometimes less) to comment on other states human rights record during the open session. The proliferation of Special Procedures means their reports – often excellent sources of both policy and country-specific recommendations – do not get the attention they deserve as less and less of the Council’s meeting time is devoted to their consideration and debate.

There have been previous attempts to reform the treaty body system, and to rationalize the work of the Human Rights Council. They have at best brought modest improvements. And the High Commissioner for Human Rights’ pleas for extra funding have gone unanswered. Many argue that a serious reform effort may lead to a weakening of the system, as under the guise of “rationalization” states will cut important mechanisms, or place independent mandates under


greater state control. These are real concerns. On the other hand, it is clear that the system cannot simply continue as is. There is a real opportunity for a Canada and other like-minded countries to develop reform proposals that will both strengthen and rationalize the system and then build a coalition of states to get them adopted. This should include significant new funding.

Finally, there is an opportunity for Canada and other middle powers to work with developing countries in defining and agreeing measures to address new human rights challenges, including climate change, food and water insecurity, and the impacts of new technologies. Regarding the latter, artificial intelligence (AI) could bring clear benefits including in relation to rights to health, access to information, and others, but the risks too are profound. And AI is but one part of the challenges posed by ‘big data’, and who controls it. Poorer countries in the global South would be natural partners in such an endeavor, as they have almost no power to influence the direction of these technological developments, and are at the same time weakly equipped to respond to the privacy, security, and many other threats they pose. They also have a keen interest in trying to ensure their countries too can derive the benefits that these technologies might bring.

Conclusion

The international human rights regime faces many threats; obviously, there are no grounds for complacency. But the assumption that declining western power will necessarily spell the demise of that regime is unwarranted. Although many western powers (including especially the middle powers), have been key supporters of the regime, it has always been propped up too by a range of non-western powers. A moment’s reflection should make clear why this is so. Universal human rights hold the promise of global standards of dignity, equality, and freedom. This is a promise that appealed deeply in a post-war world dominated by western colonialism, and still appeals in today’s grossly unequal world order.

The pessimistic talk of decline assumes a highpoint for human rights that those engaged in the global struggle to protect these rights simply don’t recognize. Indeed, the alleged crisis for human rights is one that seems ever-present, and the notion of an ‘endtimes’ is hardly new. In the lead-up to the Vienna World Conference on Human Rights in 1993, there was a good deal of concern that the growing power of Asia would spell the demise of universal human rights. “Asian values” some in the region argued, prioritized community, duty and order, over the individual, rights and freedom. That debate, so prevalent at the time, has largely disappeared. Similarly, post 9/11, as western states, under the lead of the US, championed security over rights, many prophesized the fatal weakening of the global human rights regime. Yet that challenge too, though still present, has been confronted.

Rather than a rise and fall, the better description of the place of human rights on the global agenda is one of continuous struggle. A struggle to be heard waged by those defending these rights, and a struggle to remind shifting coalitions of states of the promises they have made to respect them.