



Universal Human Rights in Progressive Thought and Politics

Part Four of the Progressive Tradition Series

John Halpin, William Schulz, and Sarah Dreier October 2010



Center for American Progress



Universal Human Rights in Progressive Thought and Politics

Part Four of the Progressive Tradition Series

John Halpin, William Schulz, and Sarah Dreier October 2010

Contents

1 Introduction

4 Origins of universal human rights in progressive thought

6 Challenges for progressives in securing universal human rights

9 Unresolved controversies: Negotiating contemporary human rights issues

10 National security in a post-9/11 world

12 Obligations to international law and state sovereignty in the 21st century

15 The “Second Bill of Rights”: Economic, social, and cultural rights

18 Conclusion

19 Appendix: Articles of the Universal Declaration of Human Rights

21 Suggested Reading List

22 Endnotes

23 About the authors and acknowledgments

With the rise of the contemporary progressive movement and the election of President Barack Obama in 2008, there is extensive public interest in better understanding the origins, values, and intellectual strands of progressivism. Who were the original progressive thinkers and activists? Where did their ideas come from and what motivated their beliefs and actions? What were their main goals for society and government? How did their ideas influence or diverge from alternative social doctrines? How do their ideas and beliefs relate to contemporary progressivism?

The Progressive Tradition Series from the Center for American Progress traces the development of progressivism as a social and political tradition stretching from the late 19th century reform efforts to the current day. The series is designed primarily for educational and leadership development purposes to help students and activists better understand the foundations of progressive thought and its relationship to politics and social movements. Although the Progressive Studies Program has its own views about the relative merit of the various values, ideas, and actors discussed within the progressive tradition, the essays included in the series are descriptive and analytical rather than opinion-based. We envision the essays serving as primers for exploring progressivism and liberalism in more depth through core texts—and in contrast to the conservative intellectual tradition and canon. We hope that these papers will promote ongoing discourse about the proper role of the state and individual in society, the relationship between empirical evidence and policymaking, and how progressives today might approach specific issues involving the economy, health care, energy-climate change, education, financial regulation, social and cultural affairs, and international relations and national security.

Part four of the series examines the important role of human rights in the development of progressive thought and activism both domestically and globally.

Introduction

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

— Article 1, *Universal Declaration of Human Rights*

These two elegant sentences from the opening article of the Universal Declaration of Human Rights, or UDHR, constitute a clear and compelling statement of progressive values and represent the culmination of centuries of philosophical thought about the rights and duties of humanity.

Although the primary ideas of freedom, equality, and solidarity expressed in this document arise from multiple sources and contexts, American progressives in the 20th century played a defining role in turning the concept of full and equal rights for all into a tangible expression of international opinion and concern. Leading progressives from Jane Addams and W.E.B. Du Bois to Franklin and Eleanor Roosevelt—who chaired the committee that drafted and passed the UDHR—built on the political thought of the nation’s founders and the activism of abolitionists, suffragists, and civil rights leaders throughout the 18th and 19th centuries. These activists led the charge to enshrine the core belief that all people, by virtue of their common humanity, are guaranteed certain rights, freedoms, and opportunities necessary to lead meaningful and secure lives.

The 30 articles of the UDHR, unanimously adopted by 48 countries in the General Assembly of the United Nations on December 10, 1948, spell out in concise detail the consensus foundations for all free and democratic nations. These principles—nonbinding goals rather than concrete laws—include explicit rights to life, liberty, and self-determination; fair and equal legal treatment under law; freedom of thought, expression, and movement; and a range of social and economic goods including employment, equal pay, food, housing, health care, and education.

The notion that all people enjoy inherent rights by virtue of being human beings may seem self-evident to most Americans today. But for the bulk of human history, and much of our own nation's past, most people lacked guaranteed political, social, and economic rights. The great majority of human beings throughout time have been consigned to some form of slavery, serfdom, oppression or autocratic rule in practice, even with major religious and philosophical traditions defending the inherent dignity and worth of individuals. This remains true, unfortunately, for significant numbers of our fellow human beings living in authoritarian or unjust societies today.¹

World opinion eventually shifted from a view that defended the priorities of the privileged above all others toward explicit guarantees of individual liberty under government with the rise of Enlightenment thinking about the rights and duties of man, and the revolutionary wars for independence successfully fought in America and France. Social movements across the world, including the progressive movement in the United States, rose up to help turn the ideals of human equality and guaranteed liberty into practice through efforts to eliminate slavery; to ensure civil rights for all regardless of gender, religion, or belief; to protect the vulnerable; and to establish the social and economic means for the least well off to fully enjoy these rights.

A new global consensus emerged after the world collapsed into chaos, aggression, and mass slaughter during World Wars I and II that lasting peace required the protection of individual rights and freedoms in all countries. The global community took strong steps to turn this consensus into institutional practice first by creating the League of Nations, which was mostly ineffective and eventually failed with the rise of German aggression and economic depression in the 1930s, and later the United Nations.

In the 50 years since its signing, the UDHR and subsequent treaties and covenants designed to implement its vision have been a guiding source for social and political movements seeking individual rights and emancipation from oppressive governments and mistreatment by other groups. One document obviously did not eliminate future crimes against humanity or eradicate political persecution, but it did set in motion a wave of political reforms that would ensure that such behavior would face the full collective scrutiny and combined action of free peoples across the globe.

The UDHR, effectively a list of enumerated rights and privileges accorded to all people equally as human beings, does not specify a set of concrete policy steps or political approaches to secure these ideals (see Appendix for all 30 articles in the

Social movements across the world, including the progressive movement in the United States, rose up to help turn the ideals of human equality and guaranteed liberty into practice.

UDHR). The preamble to the document, however, concludes by explicitly endorsing “progressive measures” and education to help secure these political, economic, and social rights:

Now therefore, the General Assembly, proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States and among the peoples of the territories under their jurisdiction.

Progressives have taken these challenges to heart in trying to design and implement a political order that meets the highest ideals of America and the global community. As Eleanor Roosevelt stated before the signing of the document, “This Universal Declaration of Human Rights may well become the international Magna Carta of all men everywhere. ... comparable to the proclamation of the Declaration of the Rights of Man by the French people in 1789, the adoption of the Bill of Rights by the people of the United States, and the adoption of comparable declarations at different times in other countries.”² Although the work of securing true liberty and equality for all presents numerous diplomatic, humanitarian, and military difficulties, it remains the duty of progressives to defend these ideals and to help turn them into reality for people everywhere.

The rest of this paper will explore the origins of human rights principles in religious, philosophical, and political contexts; examine the ongoing challenges progressives face in turning this inspirational vision into reality; and finally, discuss some of the contemporary debates about human rights from a domestic and international perspective. Our goal is to provide a concise summary of the relationship between human rights and progressivism rather than a comprehensive explication or defense of a particular system of thought, as with other essays in the Progressive Tradition series. We have provided a list of key sources at the end of the paper for those interested in exploring these ideas in more detail.

Origins of universal human rights in progressive thought

Core conceptions of universal human rights in international and domestic affairs do not originate or end in progressivism. Despite the primary role of progressives in advancing many of these concepts in the 20th century, many people who called themselves progressives in the past actively violated these ideals, particularly on matters of racial and ethnic equality. Many others who did not share a progressive outlook on human rights per se took active steps to uphold these values in practice. One need not be a progressive to defend human rights. The concept is now so widespread and enjoys such a high level of consensus that people across the political spectrum (outside of authoritarian or fundamentalist societies) fight for the political and social freedoms outlined in the UDHR and actively try to rectify human rights violations in practice.

So what is the relationship between human rights and progressivism?

As William Schulz, former executive director of Amnesty International and co-author of this paper, argues in other work, there are three primary sources of human rights ideals in political thought and action: religion, natural rights, and philosophical pragmatism.³ A fourth source, suggested by Paul Gordon Lauren, a leading historian of the development of international human rights, lies in actual experiences of violence and oppression that lead to direct actions against tyrannical governments coupled with arguments for new or expanded rights.⁴ Progressives throughout time have drawn on all four sources in their defense of human rights, although they have sometimes expressed criticism of religious and natural rights traditions as insufficient grounds for protecting the full range of political, social, and economic rights and instead favored a pragmatic defense of human rights grounded in political consensus as more enduring.

The teachings of most major faith traditions throughout time, including Christianity, Judaism, Hinduism, Buddhism, and Islam, promote the inherent dignity and worth of every person. The social justice traditions of Protestantism, Catholicism, and Judaism in America have played major roles in directing progressive forces toward human rights activism, particularly in the abolitionist, women's suffrage, and civil rights movements. Similarly, progressive thinkers from the Founding era, most prominently Thomas Jefferson and Thomas Paine (who first employed the term "human rights"),

drew on the ideas of Enlightenment thinkers like John Locke, Jean-Jacques Rousseau, and Immanuel Kant to create clear statements about the primacy of human rights in forming legitimate governments.

Religious and natural rights traditions argue that human beings enjoy basic rights to life, liberty, and happiness by virtue of either being children of God or fully reasoning humans. Foundational thinkers argued along with their defense of natural rights that people have certain duties to protect and advance the rights of others. As Thomas Paine stated in the *Rights of Man*, “Whatever is my right as a man is also the right of another; and it becomes my duty to guarantee as to possess.”⁵

These compelling and inspirational defenses of human rights in the religious and natural rights traditions are often seen as inadequate foundations for making them truly universal, however, as visions of divine intent and human nature vary greatly across nations and cultures. Similarly, throughout history, rulers have employed these divergent concepts as excuses for violating human rights rather than protecting them.

Consequently, without rejecting the importance of religious and natural rights sources for human rights, progressives from the 20th century forward have typically defended these rights using the ideas of philosophical pragmatism. Philosophical pragmatism focuses on the importance of democratic consensus in evaluating the moral and practical worth of ideas. Rather than different groups and nations drawing on often incommensurable ideas about religion and acceptable human behavior to defend universal rights, progressives in the pragmatic tradition have relied upon actual political consensus and laws to bring a uniform set of values and concrete rights into reality. The UDHR’s drafting and passage exemplifies this focus on pragmatism and consensus—35 of the 48 nations that signed the document were predominantly Judeo-Christian countries, 11 were Muslim, six were Marxist, and four were Buddhist.⁶

The logical and practical superiority of the pragmatic defense of universal human rights throughout the 20th century helped to strengthen the defense of these rights. As Schulz argues,

... [H]uman rights are guides to civilized conduct that have been drawn up and recognized by people from all over the world. ... they are incorporated into the laws and policies of vast numbers of the world’s nations. ... and they are codified by international law and interpreted by international courts. ... human rights ultimately trump all parochial interests for they are a means by which all people ‘everywhere in the world,’ the weak as well as the strong, may give legitimacy to their needs and aspirations.⁷

Progressives in the pragmatic tradition have relied upon actual political consensus and laws to bring a uniform set of values and concrete rights into reality.

Challenges for progressives in securing universal human rights

The Universal Declaration of Human Rights and other transnational agreements and institutions have done a great deal to advance the cause of individual freedom and dignity across the globe. But violations of human rights occur on a regular basis from genocide in Sudan and sex slavery in Asia to political repression in Russia and constitutional abuses in Venezuela. Well-intentioned signatories of the UDHR, including European nations and the United States, as well as a variety of nonstate actors and multinational corporations, often violate these norms at home and abroad with few consequences. At the same time, we are all too aware that many of the worst human rights abusers go unpunished.

Given the global consensus about the importance of human rights and the “self-evident” commitments to life, liberty, and security, why do so many human rights violations continue unimpeded?

Three primary barriers stand in the way of progressives seeking to deepen the promotion of human rights across the globe: the challenge of national sovereignty and enforcement, the challenge of illiberal forces across the globe, and the challenge of finding domestic consensus on the basic list of human rights.

The UDHR is a visionary document rather than a binding treaty, although its authors did intend for nations to create available legal means for upholding the rights listed in the document. Questions about national sovereignty and enforcement have always hampered the movement toward enforceable human rights across the globe. There is a widespread perception, wrongly held by many political leaders, that fundamental security issues or national interests are not served by adhering to human rights standards. This disconnect between binding values and concrete actions leads to both good and bad developments on the human rights front.

The United States, for example, has its own constitutional protections and judicial proceedings available for upholding human rights domestically. Many of these provisions are much stronger than protections available in other nations and offer

clear jurisdictions for enforcement. And the United States has done a great deal internationally to stand up for its stated values of individual freedom and political, social, and economic rights for all people.

Yet Americans often ignore violations of universal human rights conducted by their own government both abroad and at home—as is arguably the case with the death penalty, the economic status of the poorest Americans, and until recently the incarceration of juveniles for life without parole. The United States government consorted throughout the 20th century—and most prominently during the height of Cold War anti-communism—with nations and groups that killed and repressed their own people. The United States steadfastly refuses to this day to allow other bodies to examine its own human rights violations domestically and abroad and we often violate the sovereignty of other nations in pursuit of our own goals.

When atrocities committed by representatives of the U.S. government come to light, such as the prisoner abuses at Abu Ghraib and Guantanamo Bay, or when U.S. companies operating in foreign countries commit human rights violations, the international community has no viable means for punishment or enforcement despite clear violations by our nation of provisions in the UDHR and other covenants. Only public outcry from human rights activists and concerned citizens has led to action on these fronts.

The United States is not alone in invoking sovereignty on issues of human rights and there may be legitimate reasons for pursuing such actions. But it is difficult to deny that the constant appeal to national sovereignty and self-interest severely undermines the universality of human rights in practice.

The situation is much worse in terms of the international community's ability to rein in those nations and groups that engage in serial human rights violations. Beyond the litany of rogue states such as North Korea and Iran and terrorist groups such as Al Qaeda, many fundamentalist and authoritarian societies in the Middle East and Asia invoke cultural and religious differences to subvert democratic rights for opponents and to deny women or ethnic minorities equal standing and protection in society.

These nations and groups are violating the basic rights of millions of people across the globe according to the UDHR as well as our own liberal values. These actions must end if these agreements and values are to have any real meaning in practice. But outside of direct military action or other forms of direct intervention, which

The United States
steadfastly refuses
to this day to
allow other bodies
to examine its
own human
rights violations
domestically and
abroad and we
often violate the
sovereignty of other
nations in pursuit of
our own goals.

have many unintended consequences, there's very little that can be done to stop these violations without legitimate legal avenues for redress and actual powers to enforce human rights.

Complicating matters more, there are serious internal disagreements within the United States and other nations about the substance of human rights.

Conservatives consistently maintain that the social and economic rights outlined in the second half of the UDHR are secondary rather than primary rights and may in fact violate the political rights of some by extracting their wealth for the benefit of others. Progressives have always maintained that political and social rights are inseparable—no one can effectively carry out their political liberties and duties without the minimum requirements of human development and protection through food and housing, education, and work.

This ideological battle has been ongoing since the late 19th century, and despite advances in the provision of many social and economic benefits here and across the globe, many nations remain objectively unequal in economic terms and millions of people continue to live in conditions that violate international human rights standards.

Further challenges to the human rights agenda are developing going forward, particularly in relation to national security issues here at home and in terms of transnational issues including poverty and global warming.

Unresolved controversies: Negotiating contemporary human rights issues

Addressing human rights abuses has always been a morally, politically, and pragmatically complex project. Leaders in the United States dedicated to combating this century's most pressing human rights issues will be forced to address several challenges and controversies that remain unresolved. These controversies include striking appropriate balances between liberty rights and security rights; between national sovereignty and international legal consensus; between civil and political rights and social and economic rights; and between short-term setbacks and long-term advances.

In just one telling example of these complicated tradeoffs, the International Criminal Court's indictment last year of Sudanese President Omar Hassan al-Bashir for war crimes prompted the defiant leader to expel 40 percent of the humanitarian aid workers in Darfur, depriving millions of life-sustaining services. That indictment, however, which was the first ever ICC arrest warrant issued against a current head of state, strengthened the international community's authority to end the violence in Darfur and will arguably play a key role in establishing new international norms restraining the perpetration of genocide.⁸

Human rights laws and standards are constantly evolving to respond to practical and political complexities (securing sufficient evidence of the destruction of villages in Darfur, for example), moral ambiguities (uplifting the rights of women and girls without condemning cultural differences), and tough policy questions (finding the best way to encourage powerful regimes like China and Russia to put an end to their domestic human rights violations), to name a few.⁹ World leaders, humanitarians, human rights activists, domestic policymakers, and members of the global community all participate in this ongoing evolution, codifying laws and institutions at the national, regional, and international levels to respond to new dilemmas and advance evolving agreed-upon norms.

But when it comes to human rights, there are still many unresolved controversies. How can the United States maintain a strong, effective national security strategy that respects human rights and protects the well-being of its citizens from terrorist

extremists? Should states be held accountable to global human rights standards at the expense of national sovereignty? What is the appropriate balance between civil and political rights on the one hand, and economic, social, and cultural rights on the other? Is economic development an essential cornerstone to advancing both security and human rights around the globe?

None of these current controversies lend themselves to clear, easy answers. They each challenge several traditional American theoretical assumptions about human rights and international politics, including military prowess as the best way to ensure national stability, uncompromised notions of state sovereignty, and the supremacy of civil and political rights over economic, social, and cultural rights. Progressives' historical commitments to freedom and equality in dignity and rights, negotiated through actual political consensus and codified in laws and policies, can provide a foundation for reconsidering these traditional assumptions and negotiating contemporary controversies. The American progressive tradition can serve as the basis for reinvigorated policies and a renewed commitment to the life and well-being of all people.

National security in a post-9/11 world

Current concerns about national security and the threat of global terrorism raise one of the most evident and pressing human rights dilemmas of our time. The tragic events of September 11, 2001, set the stage for a decade of national security discourse that often pits U.S. security interests against international human rights standards. U.S. foreign and domestic policies are fraught with decisions that compromise important human rights principles codified in international norms and the U.S. Constitution.

The United States has famously subjected enemy combatants to extraordinary rendition and torture in direct violation not only of the UDHR but also the requirements enumerated in the International Covenant on Civil and Political Rights, or ICCPR, and the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, or CAT, both of which the United States has ratified. The drawn-out wars in Iraq and Afghanistan, waged in the name of quelling terrorist extremists, have exacerbated regional instability and caused many civilian casualties. And American citizens and legal residents have been subjected to racial profiling and surveillance in violation of basic constitutional principles.

All of these policies, which raise serious human rights questions, have been justified as essential to advance national security. Their proponents argue that we must either accept “a government capable of torture with impunity” or risk having one “incapacitated from expeditiously taking those steps necessary to protect the public from catastrophic attack.”¹⁰

Terrorists pose very real threats to global security. These threats spotlight the alleged incompatibility between upholding agreed-upon human rights principles—which assert the inhumanity of extreme interrogation methods, extraordinary rendition, and wars waged and innocent slain in the name of revenge—and a weak national security policy that fails to secure the safety of its peace-loving citizens.

But human rights are in fact in no way inimical to the pursuit of those “more fundamental” interests. Respect for human rights is integral to the flourishing of our security goals and needs. Progressives must continue to challenge the traditional assumption that the United States should advance its own national security interests without regard for the moral legitimacy of the measures employed.

A unilateral national security policy that conflicts with the global human rights consensus fails to acknowledge what then-U.N. Secretary-General Kofi Annan made clear immediately following the September 11 attacks, that “a terrorist attack on one country is an attack on humanity as a whole.”¹¹ Many of the overreactions enumerated above have caused immeasurable harm to human rights standards, domestic political and legal institutions, and America’s own moral standing in the world. Progressives have argued for years that the United States’ own security interests are better met by relying upon global political consensus, international human rights precedents, and American human rights laws in response to such national security threats.

Effectively combating terrorism does require, however, that we decide under what circumstances to prioritize certain human rights over others. Global agreements codified in the ICCPR, a legally binding companion treaty to the UDHR ratified by the U.S. Senate in 1992, provide good guidelines (highlighted in the following paragraphs) as progressives continue to negotiate this challenging controversy.

The ICCPR prohibits some rights from being compromised or derogated from under any circumstance. These include the inherent right to life (Article 6); the right not to be subjected to torture or cruel, inhuman, and degrading treatment or punishment (Article 7); the right not to be enslaved (Article 8); the right to rec-

Progressives
must continue
to challenge
the traditional
assumption that
the United States
should advance
its own national
security interests
without regard
for the moral
legitimacy of
the measures
employed.

ognition as a person before the law (Article 16); the right to freedom of thought, conscience, and religion (Article 18); and several others.

Others rights prescribed in the ICCPR, however, may be qualified under certain unusual conditions. “In time of public emergency which threatens the life of the nation,” states “may take measures derogating from their obligations” with regard to provisions such as the right to liberty of movement (Article 12) and the rights surrounding criminal prosecution (Article 14), “for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society” (Article 29). An important component of the human rights task is to describe those dire circumstances wherein minimal, effective, limited, and temporary curtailment of rights is necessary.

We have argued that human rights are derived in part from the consensus of the international community. Thus, this difficult task of identifying policies that enable us to secure the overlapping objectives of staying alive, being free, and supporting the human rights of everyone need not become a matter of either abiding by rules or dismissing them. Instead, progressive national security policies can benefit from, and contribute to, an evolving consensus of the international community. This more flexible approach to human rights offers the possibility of reconciling new understandings of human rights with a new and changing world.

International human rights law offers great promise for resolving nuanced rights dilemmas of the highest domestic concern. And, in fact, some have attributed recent U.S. political and legal failures (including the institutionalization of torture and extraordinary rendition) to previous American choices to “weaken the domestic force of international human rights law.”¹² This raises important questions about the United States’ obligations to global norms and international legal principles and agreements, a controversy to which we now turn.

Obligations to international law and state sovereignty in the 21st century

Human rights consensus codified in norms, treaties, and legal bodies is flourishing at the global level. The consensus that first emerged to form the UDHR, guided by Franklin and Eleanor Roosevelt and other key American progressive voices, has continued to grow, with more treaties than ever before. It established an unprec-

edented permanent mechanism—the International Criminal Court—designed to bring the world’s worst human rights criminals to justice under international law when national authorities are unwilling or unable to prosecute.

The United States has not always maintained its commitments to international law principles despite its auspicious human rights leadership from the inception of the UDHR. In addition to its disregard for its commitments to the ICCPR and CAT, the United States has agreed to ratify fewer human rights treaties than any other nation in the G-20 group,¹³ an unfortunate signal to the rest of the world that it is not committed to the evolving global consensus. Moreover, the United States has fallen short of its obligations under other treaties it *has* ratified.

Despite the leadership of former Supreme Court Justice Sandra Day O’Connor, who championed the importance of international law in domestic contexts, federal leaders have refrained from acknowledging international law as having standing in American juridical disputes. Policymakers and judges at all levels of domestic lawmaking have generally resisted making international law enforceable in American courts and disputes, drawing exclusive authority instead from the U.S. Constitution.¹⁴ A scant few Supreme Court rulings have made a cursory nod to the relevance of international law in determining domestic legal disputes.

The evolving authority of international law poses important challenges to traditional concepts of national sovereignty. Understanding and negotiating the authority of international law alongside American laws, policies, and practices is another challenging, complex issue that remains largely unresolved. Opponents of substantive, enforceable international law argue that binding international expectations violate principles of state sovereignty, which value the sovereign authority of the unitary state actor above any other entity.

It is important not to overlook this concern for state sovereignty; it is a challenging dilemma embedded even within the first few lines of the U.N. Charter. Article 1 provides a revolutionary commitment to international cooperation that ensures the human rights of everyone, which no state could justifiably deny to anyone. The immediately following Article 2 provides a reaffirmation of the principle of state sovereignty and the global commitment to refrain from interfering in the domestic affairs of a nation.¹⁵

Policymakers
and judges at all
levels of domestic
lawmaking
have generally
resisted making
international law
enforceable in
American courts
and disputes,
drawing exclusive
authority instead
from the U.S.
Constitution.

Challenges to these traditional claims of national sovereignty and domestic jurisdiction are “growing in magnitude, scope, speed, and intensity” on the global level as the international community increasingly recognizes the need for universal jurisdiction to prosecute those responsible for crimes against humanity and deter future perpetrators.¹⁶

The International Commission on Intervention and State Sovereignty, or ICISS, introduced in December 2001 the concept of the Responsibility to Protect, which reflected the consensus that abominations such as acts of genocide “can never be a purely internal affair.”¹⁷ Along with the Responsibility to Protect comes a global political consensus that state sovereignty represents something more substantively meaningful than the idea that states have the right to be free from international meddling:

*What is at stake here is not making the world safe for big powers, or trampling over the sovereign rights of small ones, but delivering the practical protection for ordinary people, at risk of their lives, because their states are unwilling or unable to protect them.*¹⁸

As Secretary-General Annan observed regarding this shift, “States are now widely understood to be instruments at the service of their people, and not vice versa.”¹⁹

This recent introduction of the Responsibility to Protect may have an impact beyond humanitarian intervention against genocide and other crimes against humanity. Redefining state sovereignty echoes the good governance values that precipitated the founding of the UDHR, when world opinion first began to shift toward explicit guarantees of individual rights under government. And it is based on progressive commitments to dignified life, liberty, and security for all people across the globe, not on the supremacy of state powers.

These same progressive values inspire global actors to hold states accountable for less extreme and more widespread human rights violations that take place in the domestic sphere. It may become increasingly challenging for countries such as the United States to ignore its own failure to uphold the ICCPR, CAT, the International Convention on the Elimination of All Forms of Racial Discrimination, or CERD, and other international norms for its citizens and residents.

The “Second Bill of Rights”: Economic, social, and cultural rights

As international law standards continue to evolve and attract more respect, they will likely stir up more substantive discussions about the relationship between civil and political rights—codified in the ICCPR—and economic, social, and cultural rights—described in the International Covenant on Economic, Social and Cultural Rights, or ICESCR. The ICESCR can be an increasingly powerful tool as progressives continue to stand by their classic commitment to address social inequalities and disparities.

Civil and political rights include the rights to life, liberty, freedom of association, and fair and equal treatment under the law. Economic, social, and cultural rights are made up of such fundamental needs as the right to food, decent living conditions, education, and basic health care. Together, these two sets of rights make up the “universal, indivisible and interdependent and interrelated” list of basic human rights entitlements recognized under international law.²⁰

Unfortunately, this official proclamation of indivisibility masks deeply seeded tensions between the two sets of rights, the complicated relationship between freedom and equality, and the appropriate role of government in negotiating these two sides of the fairness coin. Many world leaders are loyal subscribers to one side at the expense of the other.²¹

The United States was founded on the notion that government should protect civil and political rights at all costs. These unalienable rights are the “truths” that the founding fathers held to be “self-evident” in the Declaration of Independence, that “all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.” The Bill of Rights is a classic list of these guarantees of freedom and equal treatment under the law. In concert with this legal tradition, the United States has ratified the ICCPR but not the ICESCR.

American progressives have historically understood that political freedoms are empty vessels in the absence of basic, life-sustaining resources. People who lack basic access to food, shelter, health care, or education cannot fully or even partially enjoy these freedoms. Economic disparities and social discrimination have relegated large swaths of the population to lives of poverty. Recent winner of the Nobel Prize in economics Amartya Sen captured this progressive sentiment well: “Economic unfreedom can breed social unfreedom, just as social or political unfreedom can also foster economic unfreedom.”²²

American
progressives
have historically
understood that
political freedoms
are empty vessels
in the absence of
basic, life-sustaining
resources.

The American progressive movement has always worked to establish policies that enable the least wealthy to access essential resources and enjoy these inalienable rights. Progressive leaders throughout the 19th and 20th centuries advanced astute policies that take seriously the importance of meeting basic economic and social needs, which are necessary if the principles behind the Bill of Rights are to be realized.²³ Progressive advocates of this “Second Bill of Rights” continue this important effort today.

Economic disparities between the wealthy and the “unfree” poor are as great today as at any point since the Depression. Poverty rates in the United States are now at their highest levels since the mid-1960s despite the explosive income and wealth growth for the top 1 percent of earners in this country. The 2009 poverty data reports that 43.6 million Americans—14.3 percent—lived in poverty at some point last year—an increase of 3.7 million people in one year. The poverty rate among non-Hispanic whites was about 9 percent, but higher than 25 percent for African Americans—25.8 percent—and for Latinos—25.3 percent).²⁴

Among the most pressing issues that plague our nation today are: a crippled health care system that leaves tens of millions of Americans without access to basic services; a skewed public education system with grossly unequal distribution of resources that fall strikingly along racial and ethnic lines; and high poverty, homelessness, and unemployment rates, only exacerbated by the current economic recession. These demonstrate the failure of our system to enable the free and equal dignity of all Americans.

The picture is still worse on the global stage where an even more “morally tarnished” political history has been allowed to foster “radical inequality.”²⁵

The more than 2 billion people living below the international poverty line consume 1.3 percent of the global product, while the 955 million in high-income countries consume 81 percent of the global product according to 2005 World Bank numbers. One-third (18 million) of all annual global deaths are caused by poverty. Billions remain condemned to lifelong severe poverty and all its restrictive and prohibitive evils, including short life expectancies, poor health, social exclusion, dependency, illiteracy, and enslavement. The civil right to life is predicated on access to the bare-minimum life-sustaining resources that these billions lack.²⁶

We cannot ignore the fact that these severe clutches of poverty inhibit the freedom and liberty of the vast global poor and that these economic deprivations mark major human rights shortcomings. As Thomas Pogge, global poverty expert and director of the Global Justice Program, provocatively states:

We call it tragic that the basic human rights of so many remain unfulfilled, and are willing to admit that we should do more to help. But it is unthinkable to us that we are actively responsible for this catastrophe. If we were [to admit our real responsibility for these disparities], then we, civilized and sophisticated denizens of the developed countries, would be guilty of the largest crime against humanity ever committed, the death toll of which exceeds, every week, that of the recent tsunami and, every three years, that of World War II, the concentration camps and gulags included.²⁷

On the flip side, global development, which includes not just eradicating extreme poverty but also building social services and replacing authoritarian regimes with democratic institutions, is a process of increasing freedom around the world. According to Sen, “viewing development in terms of expanding substantive freedoms directs attention to the ends that make development important.”²⁸ Any efforts to support sustainable global development will help advance human rights around the world.

But the human rights benefits of global development do not end there. Progressive voices argue that effective global development is the best way to ensure sustainable security around the world, and therefore the best way to ensure our own national security interests.²⁹ Investing in global development may be another important way for the United States to resolve the human rights dilemmas imbedded within its current post-9/11 national security policies, discussed earlier in this section.

Conclusion

The challenge of finding consensus on the basic list of human rights is ongoing. It must incorporate progressive commitments to resolving economic and social disparities and is undoubtedly the oldest and most fundamental of the unresolved controversies discussed here. Negotiating the complex relationship between individual-centered civil and political rights, on the one hand, and social and government responsibilities, on the other, presents challenges to traditional assumptions about rights. It broadens notions of the common good, social responsibility, prosperity, and security.

Developing consensus on this “Second Bill of Rights” is and will be increasingly important for American domestic politics, as we negotiate new progressive policies in support of education, health care, and poverty reduction domestically, and address issues of extreme poverty and work to aid development globally.

Issues in one part of the world impact the lifestyles of people living across the ocean as the world becomes increasingly connected. We are no longer able to ignore the ways in which U.S. policies and practices are implicated in the safety, security, and well-being of people in the developing world, and international agreements and precedents are becoming increasingly necessary. It is more important than ever for the world’s leaders to join together to address restrictions on life and freedom, including violence, poverty, hunger, political instability, terrorism, and all other threats that infest the lives of individuals and communities in every country.

Appendix: Articles of the Universal Declaration of Human Rights

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

(1) Everyone has the right to freedom of movement and residence within the borders of each State.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right to equal access to public service in his country.

(3) 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.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

(1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups,

and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Suggested Reading List

- Philip Alston, Ryan Goodman, and Henry J. Steiner, *International Human Rights in Context: Law, Politics, Morals* (New York: Oxford University Press, 2000, 2007).
- Karen J. Greenberg, ed., *The Torture Papers* (New York: Cambridge University Press, 2005).
- Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (Philadelphia: University of Pennsylvania Press, 2003).
- Sanford Levinson, ed., *Torture: A Collection* (New York: Oxford University Press, 2004).
- Jamie Mayerfeld, *Suffering and Moral Responsibility* (New York: Oxford University Press, 1999).
- Jordan J. Paust, *Beyond the Law: The Bush Administration's Unlawful Responses in the "War" on Terror* (New York: Cambridge University Press, 2007).
- Thomas W. Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity Press, 2002, 2008).
- William F. Schulz, ed., *The Future of Human Rights: U.S. Policy for a New Era* (Philadelphia: University of Pennsylvania Press, 2008).
- William F. Schulz, *Tainted Legacy: 9/11 and the Ruin of Human Rights* (New York: Thunder's Mouth Press/Nation Books, 2003).
- Amartya Sen, *Development as Freedom* (New York: Random House, 1999).
- Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton: Princeton University Press, 1980, 1996).

Endnotes

- 1 See: Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (Philadelphia: University of Pennsylvania Press, 2003).
- 2 Eleanor Roosevelt, "Address to the General Assembly of the United Nations," December 9, 1948.
- 3 See: William Schulz, *Tainted Legacy: 9/11 and the Ruin of Human Rights*, Thunder's Mouth Press, Nation Books, 2003), p. 109–130.
- 4 Lauren, *Evolution*, p. 2–3.
- 5 Thomas Paine, *Rights of Man*, Heritage Press, New York, 1961, p. 114.
- 6 Schulz, *Tainted Legacy*, p. 125.
- 7 Ibid., p. 128–129.
- 8 Neil MacFarquhar and Marlise Simons, "Bashir Defies War Crime Arrest Order," *The New York Times*, March 5, 2009.
- 9 Lauren, *Evolution*, p. 279.
- 10 Benjamin Wittes, *Law and the Long War: The Future of Justice in the Age of Terror* (New York: Penguin Press, 2008), p. 4. Wittes provides a more balanced assessment in contrast to this dichotomy.
- 11 Lauren, *Evolution*, p. 276.
- 12 Jamie Mayerfeld, "Playing by Our Own Rules: How U.S. Marginalization of International Human Rights Law Led to Torture," *Harvard Human Rights Journal* 20 (2007): 96.
- 13 William Schulz, "The Power of Justice: Applying International Human Rights Standards to American Domestic Practices" (Washington: Center for American Progress, June 2009), p. 5.
- 14 For a few notable exceptions, see: The Opportunity Agenda, "Human Rights in State Courts: An Overview and Recommendations for Legal Advocacy" (2008).
- 15 Lauren, *Evolution*, p. 274.
- 16 Ibid., p. 273.
- 17 Ibid., p. 275.
- 18 Ibid.
- 19 Ibid., p. 274.
- 20 Henry J. Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals* (New York: Oxford University Press, 2000), p. 239.
- 21 Ibid., p. 237.
- 22 Amartya Sen, *Development as Freedom* (New York: Random House, 1999), p. 8.
- 23 See: The Center for American Progress Progressive Intellectual Tradition in America Series, available at http://www.americanprogress.org/issues/2010/04/progressive_traditions1.html/#aboutpt, especially: John Halpin and Marta Cook, "Social Movements and Progressivism: Part Three of the Progressive Tradition Series" (Washington: Center for American Progress, April 2010).
- 24 Melissa Boteach, "We Need to Do More to Combat Poverty: Census Numbers Highlight Need for Congress to Act" (Washington: Center for American Progress, September 16, 2010).
- 25 Thomas Pogge, "World Poverty and Human Rights," *Ethics & International Affairs* 19 (1) (2005), p. 3.
- 26 Ibid.
- 27 Ibid., p. 2, 4.
- 28 Sen, *Development*, p. 1.
- 29 See: The Center for American Progress Sustainable Security Project, available at http://www.americanprogress.org/projects/sustainable_security/index.html, especially: Gayle Smith, "In Search of Sustainable Security: Linking National Security, Human Security, and Collective Security to Protect America and Our World" (Washington: Center for American Progress, June 2008).

About the authors

John Halpin is a Senior Fellow at the Center for American Progress focusing on political theory, communications, and public opinion analysis. He is the co-director and creator of the Progressive Studies Program at CAP, an interdisciplinary project researching the intellectual history, foundational principles, and public understanding of progressivism. Halpin is also the co-author with John Podesta of *The Power of Progress: How America's Progressives Can (Once Again) Save Our Economy, Our Climate, and Our Country*, a 2008 book about the history and future of the progressive movement.

William F. Schulz is a Senior Fellow in human rights policy at the Center for American Progress and served as executive director of Amnesty International USA from 1994 to 2006.

Sarah Dreier is a former Research Assistant to the Faith and Progressive Policy Initiative and senior research fellows at American Progress, where she also worked on human rights. Before coming to American Progress, Sarah worked as a research assistant for the American Bar Foundation and a granted researcher for the International Gay and Lesbian Human Rights Commission.

Acknowledgments

The Center for American Progress and the authors wish to thank Dr. Jamie Mayerfeld at the University of Washington, Seattle, for contributing helpful thoughts and wisdom to this paper. Needless to say, he is not responsible for the contents of the paper, which is solely the work of the authors.

The authors would like to thank Annie Schutte, Ed Paisley, Lauren Ferguson, Conor Williams, and Ruy Teixeira for their valuable insights and assistance in shaping this paper.

The Center for American Progress is a nonpartisan research and educational institute dedicated to promoting a strong, just and free America that ensures opportunity for all. We believe that Americans are bound together by a common commitment to these values and we aspire to ensure that our national policies reflect these values. We work to find progressive and pragmatic solutions to significant domestic and international problems and develop policy proposals that foster a government that is “of the people, by the people, and for the people.”

