



Applying Human Rights Standards 101

How Human Rights Standards Would Improve Domestic Policy

The United States has arguably been the most influential country in developing the international human rights regime, but it is also the most reluctant of any democratic country to apply these same standards at home. Since signing the Universal Declaration of Human Rights in 1948, the United States has failed to ratify key human rights treaties, and declared those it has signed to not be legally enforceable without enabling legislation.

This reluctance partly arises from the fact that the United States has fallen short of these standards in significant ways. Americans tend to view human rights abuses as something that happens “over there,” but recent, well-known incidents such as the Bush administration’s use of secret prisons, extraordinary rendition, and torture clearly violate international norms. International bodies cite a number of additional violations: sentencing children to life in prison without parole, persisting employment discrimination against women, and de facto segregation in public schools.

Human rights benefit our society, advance our foreign policy, and enhance our standing in the world. It is time to apply to ourselves the standards we’ve long used to measure others.

Where does American resistance to applying international human rights standards come from?

Americans’ resistance to human rights norms stems from several places: misplaced fears about national sovereignty, a belief that human rights abuses only happen elsewhere, and an association of social and economic rights with “socialism.”

Concerns over national sovereignty have long fueled efforts to discredit human rights. Critics argue that revising domestic law in terms of international standards constitutes an unacceptable and unnecessary breach of sovereignty. Some argue it opens the door to foreign interference into our domestic affairs. Dissatisfaction with the United Nations has energized the view that flawed international institutions are attempting to impose norms on a country that’s getting along just fine without them.

The underlying conviction that human rights only happen in other countries is largely a legacy of the Cold War. The Civil Rights Movement hesitated to frame its struggle in terms of human rights, fearing that talk of social and economic rights would smack too much of communism. They adopted the language of “civil rights” instead, which allowed them to make claims that were more resonant with values in the American political tradition. The United Nations shied away from the civil rights question on grounds of deference to national sovereignty, and prominent international human rights organizations such as Amnesty International were equally reticent. This confluence of factors conditioned our unwillingness to interrogate our policies and ourselves through the lens of human rights.

After the Cold War, policymakers conflated social and economic rights with socialism or European-style welfare states. They were unaware of the notion of “progressive realization,” which states that rights should be achieved incrementally, and of the fact that human rights instruments do not prescribe any particular policy for doing. As a result they feared a new set of costly entitlement claims.

Why should international human rights standards be adopted in the United States?

There are a dozen compelling reasons for both policymakers and social movements to adopt human rights standards. Here are a few key examples:

Further national security goals

By increasing respect for the United States and removing the stains on our reputation that adversaries can exploit, human rights can further our national security goals. Time and again, ignoring the relationship between our domestic practices and our foreign policy goals has proven harmful: just as the Soviets exploited the prevalence of racial discrimination in the United States in their propaganda, Al Qaeda has used racial profiling against Muslims to characterize the war against terrorism as a war against Islam.

Boost credibility as a critic

The United States prides itself on speaking out on behalf of dissidents and victims of human rights abuses worldwide. But our credibility as a moral leader and promoter of democracy and human rights is tarnished if we treat prisoners inhumanely or fail to provide for our citizens’ basic needs. When the world views us as hypocritical, we erode our ability to call others into account.

Discourage the “blame game” and encourage a focus on problem-solving

A human rights approach can help public officials solve problems. The aim of human rights analysis is to assess whether basic human needs are being met. Rather than spreading blame, it seeks to identify problems and, to the extent possible, to devise win-win solutions. It is thus not only a valuable analytic tool, but a pragmatic approach that reduces defensiveness and fosters action.

Benefit American society

Human rights benefit American society. When people’s basic needs are met, and they are fairly treated by their political systems, they can support themselves, achieve personal freedom, and contribute to the welfare of society. Human rights are not just benchmarks for governments, but can actively enhance communities.

Add value to the agenda of movements fighting for social justice

By offering a common language as well as a common framework for understanding issues and potential solutions, human rights standards provide a vision around which disparate groups can build movements for change. And because human rights ideas cut across cultures and describe universal problems, they often resonate with potential allies abroad and can help movements to “go global.”

New ways of thinking about old problems

Human rights norms can introduce new ways of thinking about old problems and provide new language that helps reframe an issue. Providing universal access to health care takes on a certain urgency and importance when seen as a violation of person’s intrinsic right as a human being.

How can the adoption of human rights in the United States be promoted?

For human rights to be established there must be both strong popular support and a clear legal or policy mandate, as with many civil rights provisions today. Social movements must therefore advocate for the recognition of “rights,” and make them appealing to policymakers, lawmakers, policy analysts, and judges. Second, legal mandates must codify these “rights.”

Social movements should frame standards derived from human rights treaties not yet ratified by the United States as guiding norms rather than obligations, and advocates should capitalize on the political moment by making health care reform a “rights” issue. They should connect this and every other campaign to international human rights instruments, so that this may raise their profile and their relevance as legal mechanisms.

Advocates should also focus most of their energies on state and local governments. Local activists often have more access to and influence over local officials, and human rights claims tend to draw more attention from hometown press. What’s more, federal officials are more open to adopting new practices that have already been shown to work at the state and local level.

Public officials have a role to play, too. Policy analysts should start to frame issues in human rights terms. Legislators, on the other hand, should begin by conforming U.S. law to outstanding treaty obligations. They should follow up by ratifying key human rights treaties, especially the International Covenant on Economic, Social, and Cultural Rights. Lastly, they should begin referring to human rights instruments in legislation, or better, consider requiring human rights impact assessments of appropriate legislation and policies.

For a change in norms to be durable, it must start at the grassroots and be enshrined in law or policy. Only once human rights have become a part of our political identity will we be able to realize the world they envision here at home.