

## **International Politics, The National Interest and Realpolitik: Examining the Relationship Between Foreign Policy and Human Rights**

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### **Abstract**

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*The development of a corpus of international/universal human rights and subsequent international(public) law and international humanitarian and human rights law has been so impressive in creating the mechanisms to protect and facilitate the said human rights, and corollary create an assumed world of justice and equality. It has created the inference of a high moral consciousness in the international community, a morality which confirms the collective aspirations of the human community: to give dignity to each human being. From the foregoing, this paper sought to examine the relationship between Foreign Policy actions and human rights. The paper concludes that foreign policy actions, especially those that involve the use of force, taken by especially powerful states, do not make consideration of the human rights of citizens of target states.*

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**Keywords:** Foreign Policy, Human Rights, International Law, International Politics, National Interest, Realpolitik

### **Introduction**

Universal human rights as the term denotes creates the impression that this should be a widely accepted ideal because quite unequivocally, the entire world community is constituted by human beings as the most fundamental players in societal existence. Each human being, by virtue of their humanity must enjoy and be afforded these core rights. However, it is not as easy that. In a world of eclectic influences, personalities and generically, the differences in human beings (of character and several influential factors) means that not everyone can subscribe to notions of justice, peace, and subsequently, the respect for others and their rights; hence the need for laws and other mechanisms that protect core human values (human rights in this context) and facilitate order in societies. This reflects in the international community as well, where the behaviour of constituents of the international community must be subject to regulation for the purposes (in the ultimate sense) of peaceful co-existence and the protection of those fundamental values that are held in commonality—on the basis of being a human being the most elementary—amongst peoples of the world (albeit with the cognizance of varying religio-cultural, ideological and other differences). However, this moral high ground established by the ‘near-consensus’ on the salience of the universality of human rights is set within the confines of an international community dominated by politico-economic considerations (and interest assessment patterns) that are the major drivers of human action, and by extension can be witnessed through state behaviour.

This paper is squarely situated on the premise of seeking to examine the relationship between international politics and universal human rights vis-à-vis state behaviour in the international community i.e. as concerns foreign policy actions, especially those that involve the use of force. The specific undertaking is to discuss universal human rights against the backdrop of what is said, promulgated, agreed upon and what actually transpires as a result of mainly states’ actions as they pursue their foreign policies. Upon addressing the main predicate of this paper, the discussion will attempt to answer the following questions:

- (1) Do human rights concerns influence or inform foreign policy actions of states, especially those that inform the use of force?
- (2) Despite the ever-growing international consensus and corpus on universal human rights, why is state behaviour, especially that of states with a lot of power, not changing towards the respect for the said human rights?
- (3) Is the pursuit of national interest(s) sufficient reason to derogate the human rights of citizens of target states?

The argument is made herein that: the drive to protect and enhance human rights has been and continues to be expressed in a highly defined (although still developing) legal framework, informed by treaties, international organisations, civil society groups and human rights lawyers and experts. However, despite some successes in dealing with overall gross human rights violations and the obvious rhetorical commitment, most notably at individual level, state behaviour, and most notably of powerful states, exposes a most egregious violation of human rights most especially under the pretext of pursuing or protecting core national interests and foreign policy objectives.

The discourse on human rights in the international community is very suggestive of a global/universal human rights culture.<sup>1</sup> Therefore, in light of this pretension, it is imperative to make demands of what duties this confers on states and other members of and actors in the international community to enhance and protect the rights of those that are being systematically denied. International responsibility therefore, is two-pronged. Firstly, the duty to protect and respect human rights is internal, as inferred by the notion that the sovereignty of states compels them to be responsible for the rights of their citizens. This is reflected in the tripartite obligation that states have towards their citizens: to respect, protect and fulfill the human rights of the said citizens. Secondly, the protection of human rights is external (in the international community) occasioned by the responsibility that is placed upon states to act as protectors of citizens of states where state collapse is occurring or where the ruling regime is violating its citizens' human rights grossly: The Responsibility to Protect (R2P). However, this responsibility to protect human rights, especially in the international community, must be interrogated by looking at state behaviour that cuts across national boundaries as a result of foreign policy pursuits that have impacts on the human rights of other states' citizens. This is to state that, while states in the international community have the onus to act as guarantors of a states' citizens' human rights when that state is the violator of the said rights, states also have the duty to respect the rights of citizens in the state that becomes the target of their foreign policy exploits, especially where commercial interests or the use of force are concerned. Therefore, human rights issues in the framework of the international political economy must form the basis of consideration in the interrogation of state relations vis-à-vis foreign policy actions.

The question of human rights (in the national interest context) is a highly moral one that has to contend with the amoral nature of realpolitik considerations. Welch (2009) states that, "while the national interest is a concept with moral content, nevertheless a foreign policy grounded in the national interest will sometimes fail the test of morality. The security and welfare of the body politic is a prima facie good, and leaders shoulder a moral obligation to promote it when they take the reins of power. Nevertheless, there are times when the diligent pursuit of one's own country's security or welfare would contravene higher moral duties." It is evidently clear in these assertions that, the duty to respect the human rights of citizens of another state is inferred in foreign policy pursuits. Making a confirmation of the interface between the pursuit of national interests through the foreign policy vehicle and the moral obligations placed upon states, Fortman (2011) states that:

In the aftermath of 11 September 2001 (9/11), the world has seen a strong revival of "exceptionalism" in respect to international law. Exceptionalism is a term generally used describe the ways and means by which states exempt themselves from international legal and political order. The United States is the most obvious example of state-

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<sup>1</sup> Here it is important to stress that the author is cognizant of the universalist versus cultural relativist debate of the human rights discourse. The assertion here must not be construed as an omission of this. However, the author is strongly convinced that regardless of cultural contexts, human rights must be enjoyed as universal entitlements by all individuals within the states in the international system. In fact, the argument of cultural relativists, still expose a recognition of the universal nature of human rights to the extent that the argument for the respect for cultural contexts as concerns human rights is logically anomalous. It shows that cultural relativists in an indirect manner expose the universality of human rights regardless of diverse cultural inclinations and practices.

based exceptionalism. . . . “exceptionalism” may be used to describe any attempt to exempt citizens and institutions from democratic public-political authority and its laws, policies and actual decisions, based on assumed incompatibility with national principles. In the wake of the “Global War on Terror” as the Pentagon termed the United States’ response to 9/11, even rights very close to the core of human dignity such as the due process and the prohibition of torture have been grossly and systematically violated. Highly problematic from a human rights perspective is the exceptionalist spillover to the rest of the world, including countries like Israel and Iran, too. Speaking of the normative nature of rules-based foreign policy conduct in the pursuit of foreign policy goals, Tocci (2008: 8) states that, “a normative goal is one that pursues international regularisation in a manner that binds the behaviour of all parties, including that of the actor in question. It is particularly important to add this proviso because international law is also the product of international power relations and not a magic formula that perfectly objectivizes and universalises norms. Notwithstanding this, a focus on law diminishes the risks of imposing one’s chosen definition of norms on others through the sheer exercise of power, as well as acting inconsistently and selectively in world affairs. In other words, law can provide a normative boundary within which several codified norms can be interpreted and pursued”. Speaking of a return to multipolarity, in a world that has seen the significance of the European Union grow, the behaviour of Russia and a rising China, mostly in economic terms, and steadily in the military sense, Matlary (2013) states that, the “new great powers subscribe to a Realpolitik of old in terms of sovereignty. Human rights are not allowed to trump the non-intervention norm. . . . The use of force is not ruled out in pursuit of interests, as we saw in Georgia in 2008. The old and feared concept of “sphere of interest” is back. The new multipolarity is marked by a return to Realpolitik. This is what makes it so problematic. . . . The role of human rights as the basis for human dignity and freedom is denied in such Realpolitik. Kerman (2015) further states that:

Trade and investment and the protection of human rights often make uncomfortable bedfellows. At best, they coexist awkwardly. Who, after all, wants to embarrass powerful guests and potentially lucrative trading partners by asking uncomfortable questions? Speaking ‘truth to power’ exerts a commercial and diplomatic price after all. At worst, they are diametrically opposed ‘national interests’, if indeed the protection of human rights abroad really is a national interest for most western countries; beyond the usual rhetorical flourishes that is. And furthermore, at least up to this point, it is practically an uncontroversial truism to point out that trade and investment ass overriding national interests have almost always trumped the concerns of human rights. This is a true of Ireland as it is for France, Britain or the United States. In that sense, considering the current neoliberal orthodoxy in the West and elsewhere and the hijacking of human rights as a tool by that orthodoxy to further geopolitical aims.

Woodward (1982) in a review of Robert Johansen’s *the national interest and the human interest: an analysis of U.S foreign policy* and Paula Newberg’s *the politics of Human Rights* stated that, “from a perspective of realpolitik, a concern with the rights and welfare of persons not belonging to a nation’s citizenry is generally considered antithetical to foreign policy designed to serve the national interest. In this view, the national interest involves power, wealth, and the security of a particular “way of life”. Evans (2005) makes the point that, “as in other eras, hegemonic power does not rely upon force and the threat of force alone, but also seeks to maintain order by providing a normative framework that justifies the activities of particular interest’s.” Tocci (2008) puts the erstwhile stated in perspective when she emphasizes that, “in principle, the promotion of normative goals such as the institutionalisation and legalisation of human rights and democratic standards could be pursued through a variety of means. Yet pursuing the entrenchment of democratic standards through war unauthorized by international law can hardly be viewed as normative. To be normative, foreign policy must pursue normative goals through normative means.”

Human rights discourse in the international community sits in two primary spheres— national and international. However, to treat these as two separate spheres is not only erroneous but risks creating confusion. The near-consensus ( to suggest cognizance of the universalist-cultural relativist divide) by the international community to adopt universal human rights standards as witnessed by the so-called International Bill of Rights constituted by the Universal Declaration of Human Rights (UDHR) the International Convention on Civil and Political Rights (ICCPR) and the International Convention on Economic, Social and Cultural Rights (ICESCR) corresponds to the conclusion implicit in the codification of human rights standards—consistent with the two latter conventions—that international relations shall be conducted through high normative considerations. The consideration of this triad as the ‘holy trinity’<sup>1</sup> of the universal human rights movement has the implicit character of suggesting a normative or rather moral consciousness in the international community that lends itself to the belief that states

have ‘unanimously’ agreed on the importance of enhancing and protecting human rights. It is this character of the world communal logic that makes the pretension for the upholding of human rights standards credible. Therefore, the protection, upholding and fulfillment of universal human rights, buttressed by a myriad of international conventions, international law, civil society organisations (local and foreign), legal experts and an overall epistemic community of human rights scholars, and embodied culminatively under the auspices of the United Nations, makes for a corpus of human rights discourse rich in content and purpose, where states have legal obligations within their domestic jurisdictions to enhance and protect human rights, and also have this obligation towards the international community.

The consideration of universal human rights as a highly domestic affair is born out the idea to separate human rights issues that fall within the parameters of civil, political, social and economic— domestic rights if we may— and international human rights law. While this distinction serves a noteworthy purpose, as provided in the erstwhile paragraph, this separation must not go beyond the purpose of delineation of the subject matter for the purpose of reducing confusion when discussing human rights. However, to consider human rights as wholly domestic in one sense and international in another is perceptibly misleading. The mere fact of adoption of universal human rights standards and the consequent adoption of several conventions on human rights and further incorporation into the UN system through the Human Rights Council and the Office of the High Commissioner on Human Rights for example; and the creation of such mechanisms as the Universal Periodic Review, point to the fact that human rights cannot in any way be considered a purely domestic issue regardless of the human rights category they fall under. Far from making this a discussion on whether human rights can be domestic or international to suggest existing in two separate spheres, the insistence on this not being true (in a continually intertwining world) is employed to reinforce the argument on which this paper is based: the argument that powerful states, because of the capacity that power provides, pursue their interests through foreign policy actions that are injurious to the human rights of citizens of other states, and in breach of international law and international human rights law.

The international community especially as informed by the formation and subscription to the UN most notably to prevent the recurrence of war and maintain peace, and further extending this agenda by realising, coupled with consequent incorporation of human rights standards in the relations of states, suggests a very high moral standard that seemed to communicate its purpose well with the trial of those men responsible for egregious “human rights” violations committed during the second World War; as was seen with the Nuremburg and Tokyo Trials. Far from being precedential, these trials corroborated the consensus, *prima facie*, that the international community was going to hold itself to high moral standards and prosecute behaviour that violated universal human rights—prime among them—the right to life and the enhancement of human dignity. To avoid misunderstanding, the author here does not mean to infer that the Nuremburg and Tokyo trials were set up on the premises of upholding already existing human rights law. However, it is without doubt that these trials connoted a concern for human rights (even though not explicitly stated as the premises for trial), and the subsequent human dignity that is necessary in the conduct of international relations. These trials were informant of the need for the adoption of the Universal Declaration of Human Rights (UDHR) and the subsequent conventions that we have in place. The Nuremburg trials also further imply the non-acceptance of deleterious state behaviour (foreign policy actions) that not only breach international law *vis-à-vis* sovereignty, but that through the commands and actions of state functionaries cause harm to citizens of target states and in that respect, violates their human rights and human dignity.

However, despite the international community being seemingly clear on the importance of human rights and international law, the political element of state interaction holds more sway over any moral considerations that the universal human rights agenda seeks to achieve. As Steinmetz (1994) states, “adherents of *realpolitik* assume states to be central actors in an anarchic and essentially competitive environment. Rationality rather than. . . an assumed universal morality, guides foreign policy decisions. Such decisions are calculated in terms of interest defined as power, where power is used as an end in itself, or as a means of achieving other national interest goals. A successful policy of *realpolitik* would, therefore, be one that serves to preserve and strengthen the state.”

This is a convoluted paradox that is created by the structure of the international system. International relations are largely conducted through power relations premised on the national interests of constituting parties of the international community. These interests are pursued through foreign policies that are influenced by varying ideologies or worldviews, but more so conveyed by economic and military power. It is perhaps that the absence of an enforcement body that has jurisdiction over each state in the international community that creates a gap that

can be manipulated by those states with power to pursue their interests with impunity. It is this apparent weakness of international law that allows for power to be the mitigating factor in how states comply or rather respond to international law and the attendant human rights issues at play in the Foreign Policy exploits of the said states in the international community. As Posner (2014) in his indictment on human rights, states:

America's recourse to torture was a significant challenge to the international human rights regime. Then came September 11, 2001 and the "war on terror". America's recourse to torture was a significant challenge to the international human rights regime. The United States was a traditional leader in human rights and one of the few countries that has used its power to advance human rights in other nations. Moreover, the prohibition on torture is at the core of the human rights regime; if that right is less than absolute, then surely the other rights are as well. Realpolitik as suggestive of the primacy of national interest over moral obligation gives impetus to powerful states to pursue their foreign policy objectives in a manner that contravenes the human rights of citizens of target states: human rights violations across international borders. Nowhere has this been more obvious than, for example, with the Foreign Policy exploits of the United States with the Iraq war of 2003 and its global war on terror, or the exploits of Russia in Syria where the use of incendiary weapons laid to waste the innocent lives of Syrian citizens. As the aphorism goes, 'with great power comes great responsibility', it is almost a misstatement to argue that the US and Russia have acted responsibly in the pursuit of their national interests in light of the given reference points. Neither would it be far from true, even by mere speculation, that the decisions to use force in these instances, contained no careful considerations of human rights issues of the citizens in these targeted states. The attack on Iraq in 2003 on the false claims of Sadaam Hussein's possession of Weapons of Mass Destruction (WMDs) reveals a stark breach of international law and the subsequent derogation of the human rights especially of civilian Iraqis who lost their lives in an illegal war, due to the foreign policy actions of the most powerful nation in the world. The fact that there was equivocation on the part of the Bush administration in the stated reasons for attacking Iraq, which were later proven to be untrue, provides us with sufficient reason to conclude that the Bush administration was not concerned with the human rights of the innocent Iraqis that lost their lives, got imprisoned and even subjected to torture and humiliation in some instances. It is strongly argued here that, the stark reality of the fact that this was an illegal war gives credence to the argument that human rights concerns were not factored into the decision to go to war.

Now, some critics may be quick to argue that these claims are not supported by empirical evidence. However, we must firstly acknowledge the fact that the actions taken by the George Bush Jr. administration, of invading Iraq illegally, provides us with the empirical evidence some may seek in accepting the indictment made herein, that some powerful states show no concern for the human rights of citizens of the state(s) that form the object of their foreign policy pursuits. The engagement in an illegal war i.e. the action itself, is evidence enough to support the claim because a state that is aware that their invasion of another state is not justified under jus ad bellum principles and international law generally<sup>2</sup>, especially where this is proven to be true, as the example provides, would only do so if they have no concern nor consideration for the dictates of Human Rights and International Treaties especially concerning the use of force.

The problem of harmful foreign policy behaviour as the Iraq case provides is confoundingly compounded by for example, the refusal of the US to ratify such conventions as the Rome Statute and insisting on its incompatibility with US legal standards—another inaccurate argument. The push by the US through various bilateral treaties that prevent US servicemen from being prosecuted for acts that fall under the jurisdiction of the International Criminal Court reveals that where international law contradicts the interests of the US, it will either refrain from that law by all means—as evidenced by concluding treaties that guarantee its servicemen immunity from prosecution—or breach it with the full knowledge that its status in the world as a hegemony guarantees impunity. We saw for example the Trump government's threats of sanctions and arrests against the International Criminal Court judges and other officials if they charged any American that served in Afghanistan as a result of the US war on terror, with war crimes charges.

The contradiction is further highlighted by the fact that the claim by the US that it has a special role to play in the world (given its superior economic and military status i.e. power), makes it difficult to comprehend why the US with this 'special status' as champion of a stable and peaceful world order—informed by its constitutive genesis as a nation founded on respect for human rights—is not a signatory to the Rome Statute which is a very crucial

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<sup>2</sup> In accordance with the UN Charter's use of force authorizing articles.

convention in the dispensation of justice where universal human rights have been grossly violated. This position not only defeats the logic behind mounting the erstwhile argument but clearly shows that the US is cognizant of the fact that it is disposed to pursue its foreign policy objectives in a manner that is contrary to universal human rights standards vis-à-vis international public law.

Therefore, the contestation between the observance and respect for human rights as demanded by international public law vis-à-vis state practice or rather, the conduct of powerful states in pursuit of their foreign policy objectives, is rightfully skewed in the direction of realpolitik and power politics taking precedence over high moral standards that constitute jus cogens. A corroboration of the preceding argument can be seen with the recent killing of the Washington Post journalist, Jamal Khashoggi. At a time when the US government was expected to adopt a repudiative stance towards Saudi Arabia and Mohammed Bin Salman (MBS) in particular, for plausible involvement in the violation of the most fundamental human right: the right to life, the official response given by President Donald Trump on the matter gives credence to the constitutive argument of this paper: that the pursuit of national interests matters more than the normative demands of the human rights discourse. The concluding remarks of the official statement by President Donald Trump on the murder of Khashoggi read as follows:

I understand there are members of Congress who, for political or other reasons, would like to go in a different direction - and they are free to do so. I will consider whatever ideas are presented to me, but only if they are consistent with the absolute security and safety of America. After the United States, Saudi Arabia is the largest oil-producing nation in the world. They have worked closely with us and have been very responsive to my requests to keeping oil prices at reasonable levels - so important for the world. As President of the United States, I intend to ensure that, in a very dangerous world<sup>3</sup>, America is pursuing its national interests and vigorously contesting countries that wish to do us harm. Very simply it is called, "America First!"

The overtones of a commitment to core Foreign Policy concerns vis-a-vis the national interests as opposed to stressing the importance of human rights in the preceding statement, point to the fact that Realpolitik remains a key factor in informing the behaviour of powerful states because the international community though purportedly premised on the equality of states and the pursuit of a common agenda for humanity, is a theatre for national interest aggregation, and even disaggregation and survival.

The structure of the international system is still largely framed by atomistic national interests; with power the tool with which states bargain, even when they advocate normative issues such as human rights abuses in particular offending states. This however occurs in a matrix where states interface through a 'strong versus weak' paradigm, where even the institutional make-up of the international community as represented by the UN is more so an expression of power and hierarchy denoted by supreme authority of the most powerful nations of the world who make up the United Nations Security Council. Most contentious decisions of the UN that have binding effect are decided upon by the 5 permanent members who have the veto power on decisions. This has far reaching consequences in that these states— the US, Russia, China, France and the UK—most notably the US, Russia and China, have competing interests in the international community and more often than not, their veto power is used to reflect interest-laden decisions rather than reflecting what is overly good for international peace and security. The deadlock that is continually witnessed on the conflict in Syria is one case in point. Furthermore, these powerful states because they sit over the authority to use force in the international community as conferred by the veto power and corroborated by their military capabilities have shown themselves even at the disregard for the UN Charter, to use force in the pursuit of their foreign policy objectives outside of the required approval, and subsequently international law. The US and Russia are arguably the most culpable for their militaristic foreign policy objectives in the pursuit of their core interests where human rights violations— especially of the right to life— of citizens in

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To this effect Mr. Trump said, 'After my heavily negotiated trip to Saudi Arabia last year, the Kingdom agreed to spend and invest \$450bn in the United States. This is a record amount of money. It will create hundreds of thousands of jobs, tremendous economic development, and much additional wealth for the United States. Of the \$450bn, \$110bn will be spent on the purchase of military equipment from Boeing, Lockheed Martin, Raytheon and many other great US defense contractors. If we foolishly cancel these contracts, Russia and China would be the enormous beneficiaries - and very happy to acquire all of this newfound business. It would be a wonderful gift to them directly from the United States!'

the target states have occurred. Iraq, Yemen, Vietnam, Laos, Afghanistan<sup>4</sup>, Ukraine and Somalia<sup>5</sup>, provide us with stark examples.

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<sup>4</sup> Aljazeera for example, on 25 March 2019 reported that, “At least 13 civilians, mostly children, were killed by a US air raid in the northern Afghan city of Kunduz, the United Nations said on Monday. The air raid early on Saturday was part of a battle between the Taliban and combined Afghan and US forces that lasted about 30 hours in Kunduz, a Taliban stronghold. . . . . The deaths come as ordinary Afghans continue to bear the brunt of the conflict, with more civilians killed in the Afghan war in 2018 than during any other year on record, according to a UN report, with more than 500 killed by aerial operations for the first time on record”.

<sup>5</sup> Claire Felter writes that, ‘The Trump administration is facing increasing scrutiny over the U.S. presence in Somalia from human rights groups, which say that civilian deaths have been increasingly obscured. A March 2019 report by Amnesty International found that at least fourteen civilians were killed in just five of the more than seventy air strikes the United States has carried out in the country since early 2017. The report is based on interviews with witnesses, family members, and medical professionals, as well as a review of photographic evidence’.