

# *The United States, National Traditions, and Human Rights*

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In mid-July, after almost a year of study, public meetings, and deliberations, the U.S. State Department's Commission on Unalienable Rights issued a draft of its report.<sup>1</sup> Worries have abounded on Capitol Hill, in the universities, and among NGOs. The most extravagant of the concerns is that by complying with Secretary Pompeo's mandate<sup>2</sup>—to ground America's commitment to the promotion of human rights not only in the United States' international obligations but also in the nation's founding principles—the commission's report will play into the hands of autocratic powers. The commission's work, the critics charge, will embolden the likes of Iran, Russia, and China to redouble their appeals to their own traditions to further crush human rights.

Never mind the silly supposition that U.S. reflections on the nation's founding principles will inspire the Islamic Republic of Iran, the Russian Federation, and the People's Republic of China to show even greater disdain for human rights or to devise cleverer arguments for defying their obligations under international law.

Beyond naive assumptions about the ways of autocracy, the politicians, professors, and activists demonstrate confusion about the logic of America's 1776 Declaration of Independence and about the assumptions undergirding the United Nations' 1948 Universal Declaration of Human Rights (UDHR). Failing to distinguish between autocratic regimes and the people over whom they rule, these experts also exhibit a regrettable moral condescension toward other nations and traditions, a condescension quite at odds with the spirit—both optimistic and realistic—that informs the American founding and the UDHR's drafting and approval.

\* This is a revised and expanded version of "The United States, National Traditions, and Human Rights," *RealClearPolitics*, July 5, 2020, [https://www.realclearpolitics.com/articles/2020/07/05/the\\_united\\_states\\_national\\_traditions\\_and\\_human\\_rights\\_143629.html](https://www.realclearpolitics.com/articles/2020/07/05/the_united_states_national_traditions_and_human_rights_143629.html).

1. Commission on Unalienable Rights, *Draft Report of the Commission on Unalienable Rights*, July 16, 2020 (Washington, DC: U.S. Department of State, 2020), <https://www.state.gov/wp-content/uploads/2020/07/Draft-Report-of-the-Commission-on-Unalienable-Rights.pdf>.

2. Michael R. Pompeo, "Unalienable Rights and U.S. Foreign Policy," *Wall Street Journal*, July 7, 2019, <https://www.wsj.com/articles/unalienable-rights-and-u-s-foreign-policy-11562526448>.

Start with the common conviction, voiced by many advocates of human rights as well as by numerous proponents of the prerogatives of free and sovereign nation-states, that human rights and national sovereignty are inherently at odds: whereas human rights make universal claims, national sovereignty is rooted in a preference for one's own and devotion to the beliefs and practices of a specific people.

So by the logic of both camps, one must choose. You can espouse universal principles. Or you can champion particular traditions. But you cannot coherently do both. This is a false choice, though, because a variety of beliefs and practices can support a common set of universal principles.

Yes, it is true that a preference for one's own national traditions can be used as an excuse for majorities to oppress minorities—as it can for large nation-states to bully small nation-states. For these reasons, many human rights advocates condemn nationalism itself as inevitably unjust. Meanwhile, because the idea of universal human rights establishes a common standard for judging all nations and can be used to justify outside interference in a sovereign nation-state's internal affairs, nationalism's proponents portray human rights as a Trojan horse that empowers globe-trotting diplomats, international bureaucrats, and transnational judges—sometimes even coalitions of foreign troops—to impose one-size-fits-all rules on diverse nations.

But just as hard cases make bad law, focusing on the excesses to which principles can be taken distorts policy.

Instead of viewing human rights and national traditions as mutually exclusive, the U.S. Declaration of Independence and the Universal Declaration of Human Rights assume the fundamental importance of both. The drafters and signers of each of these seminal documents believed that universal principles counsel respect for national traditions, and that in their diverse ways national traditions were capable of nourishing respect for universal human rights.

Accordingly, the American Declaration and the Universal Declaration both affirm the freedom and equality of all human beings. They share the belief that nation-states with their many and varied traditions are the principal political unit for securing the rights inhering in all persons. And they are inspired by the confidence that nations embodying diverse cultures and religions can, relying on their own traditions, grasp and embrace a limited number of universal principles applicable to people everywhere.

The U.S. Declaration of Independence did not insist that the principles that Americans “hold” as “self-evident” and which justified their break with Britain were in 1776 self-evident to all. America's founders were grateful to the specific traditions—Biblical faith, classical political thought, and the modern tradition of freedom—that combined to form their distinctive national spirit. This inheritance trained their sight on universal principles, notwithstanding the numerous ways, beginning with slavery, that Americans violated them.

At the same time, the founders regarded as applicable to all nations the fundamental moral and political principles that the Declaration sets forth: that human beings are “endowed by their Creator with certain unalienable Rights”; “that among these are Life, Liberty, and the pursuit of Happiness”; that the chief purpose of government is to “secure these rights”; that government’s legitimate powers derive from “the consent of the governed”; and that when government systematically and resolutely violates the people’s rights, “it is the Right of the People to alter or to abolish it.”

In October 1787, a month after the Philadelphia convention sent the new charter of government to the states for ratification, Alexander Hamilton published the first installment of *The Federalist*.<sup>3</sup> He argued that the fate of the Constitution, which sought to secure the unalienable rights the Declaration proclaimed, was pertinent to other peoples as a test of the proposition that human beings were capable of founding a nation-state grounded in universal principles. “It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force,” Hamilton wrote. “If there be any truth in the remark, the crisis at which we are arrived may with propriety be regarded as the era in which that decision is to be made; and a wrong election of the part we shall act may, in this view, deserve to be considered as the general misfortune of mankind.”

Like the Declaration of Independence, the UDHR was unprecedented. Never before had representatives from nations around the world drafted and formally agreed to a document that identified a core set of rights to serve “as a common standard of achievement for all peoples and all nations.”

Yet far from presupposing that passage in the United Nations would herald the advent of a transnational governing framework, the UDHR is based on the assumption that distinct peoples and nations would shoulder the primary responsibility for honoring its universal principles. The drafters, moreover, envisaged nations representing the world’s civilizations turning to moral, political, philosophical, and religious sources from within their particular traditions to affirm the UDHR’s core principles.

To assess the prospects for such convergence, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) commissioned in 1947 a symposium comprising thinkers from around the world to address the relation between universal rights and national traditions. The essays, published in 1948 under the title *Human Rights: Comments and Interpretations*, wrestled with the

3. Alexander Hamilton, “The Federalist Papers: No. 1,” *Independent Journal*, October 27, 1787.

ultimate foundations of human rights and the diversity of cultures and nations, including essays directly discussing the Chinese, Islamic, and Hindu traditions.

In the document's introduction, distinguished French Catholic philosopher Jacques Maritain stressed that while it was reasonable to hope that the nations of the world could agree on a common set of basic human rights, it was unreasonable to expect agreement about the ultimate foundations of such rights. On the one hand, people were "apprehending today more clearly than heretofore, though still very imperfectly, a certain number of practical truths about their life together, on which they can reach agreement." On the other hand, these practical truths, "in the thought of the different groups, derive, according to types of mind, philosophic and religious traditions, areas of civilization and historical experience, from widely different, and even absolutely opposed, theoretical concepts."

The proper response, argued Maritain, was not to suppress that human diversity but to invite the peoples and nations of the world to discover within their traditions their own ways of arguing for the UDHR's basic rights, starting with the cornerstone conviction set forth in Article 1: "All human beings are born free and equal in dignity and rights."

The contribution to the UNESCO symposium from West-China University professor Chung-Shu Lo, which calls attention to the continuities as well as the discontinuities in discussions across civilizations about the rights inherent in all persons, is particularly instructive.<sup>4</sup> In "Human Rights in the Chinese Tradition," he emphasized that "the problem of human rights was seldom discussed by Chinese thinkers of the past, at least in the same way as it was in the West." To underscore the challenge of understanding across cultures, Lo observed that the accepted translation into Chinese of "rights" involves "two words '*Chuan Li*,' which literally means 'Power and Interest.'"

The term "human rights" was itself of relatively recent vintage in the West. It is a successor to the early modern notion of natural rights—privileges to act and immunities from being compelled to act in certain ways that are inherent in all persons. The language of natural rights had supplanted both "natural law," which began with duties and virtues and was elaborated most thoroughly by medieval political philosophers, and "natural right," which established a universal standard of moral and political excellence, which was explored most extensively by classical political philosophers.

Notwithstanding the translation challenge, Lo stressed the continuities in human rights thinking between China and the West. The necessity of new coinages "of course does not mean that the Chinese never claimed human rights or enjoyed the basic rights of man," he wrote. "In fact, the idea of human rights developed

4. Chung-Shu Lo, "Human Rights in the Chinese Tradition," in *Human Rights: Comments and Interpretations*, ed. UNESCO (Paris: UNESCO, 1948), pp. 185–89.

very early in China, and the right of the people to revolt against oppressive rulers was very early established.”

Lo proceeded to articulate “the basic claims, the principles from which all human rights may be derived for all the people of the Modern World.” Seeking principles that were “brief yet clear, broad yet concise, fundamental yet elastic, so that” they “may be interpreted to suit the needs of peoples in different circumstances,” he identified “three basic claims, valid for every person in the world, namely: (1) the right to live, (2) the right to self-expression and (3) the right to enjoyment.”

By the right to live, which covered “the biological and economic level” of human existence, Lo understood something like the right to self-preservation combined with the right to a certain standard of living. By the right to self-expression, which covered “the social and political level,” he intended living with “dignity and self-reliance” while occupying “a proper place in society.” This called for “the fullest degree of self-expression” for individuals as well as “[t]he right of national groups to self-determination.” And by the right of enjoyment, which covered “the aesthetic and spiritual level,” he sought to capture the right to leisure that enabled the cultivation of “the inner life,” of the mind and spirit.

Speaking from within the perspective of the Chinese tradition while looking beyond it, Lo maintained that such rights reflected the elemental conditions of the world capable of being readily grasped by people from the world’s many traditions and nations:

- (1) that the world is an organic whole, so we should work in co-operation to improve the individual lives of people as a whole; (2) that each individual is an end in himself, and all social institutions are the means to develop each individual as fully as possible; (3) that each individual or national group should respect the rights of others to the same degree as we treasure our own; and (4) that each, by making the most of himself, can at the same time contribute best to the world at large.

The drafters did not fully incorporate the basic rights Lo identifies into the UDHR, and the elemental conditions that he maintains they reflect may not be self-evident to all. But the rights and conditions have analogues within the intellectual inheritance of Western civilization, and the claims about the world’s basic features that he highlights are readily intelligible across cultures. Lo’s analysis demonstrates the resources within diverse civilizations for reaching common conclusions about basic human rights.

To the extent that the Commission on Unalienable Rights has honored Secretary Pompeo’s mandate, we will have provided not only fellow citizens but friends of freedom elsewhere a contemporary example of drawing on one’s own traditions to affirm the rights all human beings share.