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Trading Sovereignty for Self-Determination: Regional Organizations, Authority, and Human Rights

By

Katherine Beall

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Philosophy

in

Political Science

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Committee in charge:

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Trading Sovereignty for Self-Determination:
Regional Organizations, Authority, and Human Rights

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by

Katherine Beall

Abstract

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Doctor of Philosophy in Political Science

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Professor Susan Hyde, Chair

States in the Global South have historically been among the strongest defenders and greatest beneficiaries of strict norms of sovereignty and non-interference. Yet, in the 1970s and 1980s, states in Latin America and Africa began to compromise on the norm of non-interference by delegating authority to enforce human rights to their own regional organizations. What explains this behavior? Why did this change occur unevenly across regions, with states in the Middle East and Southeast Asia continuing to uphold the norm of non-interference?

I argue that states delegated this authority in response to challenges to their self-determination, or their ability to domestically affirm the decision to accept international rules and to meaningfully participate in their implementation. In the 1970s, Western governments began to enforce human rights by incorporating them into their economic relations with developing states. These new enforcement measures challenged the self-determination of states that were subject to them, creating a new set of human rights policies that were presented as a *fait accompli* and were implemented in contexts in which they were unable to exercise influence.

For states on the receiving end of these policies, the question was no longer *whether* human rights would be enforced, but *who* would enforce them and *how.* They responded by trading sovereignty for self-determination—creating, accepting, and expanding human rights enforcement mechanisms and arguing for the authority of their own regional organizations. By doing so, long-time dictatorships and states that genuinely supported human rights cooperated in an attempt to establish an alternative enforcement authority over human rights, one in which they could exercise greater voice and influence. In this way, delegation was a form of subtle resistance. Regionalism provided a way for weaker states to exercise agency, mitigate the effects of international hierarchy, and increase their voice and influence over global governance.

These changes occurred unevenly because the policies were applied unevenly. Western states tended to pursue them in regions where doing so was relatively cheap and easy, while subsuming human rights to other issues in regions where they had other countervailing foreign policy goals. As a result, in the Middle East and Southeast Asia, states did not experience the same pressures, and as a result, they maintained their previous stance on non-interference.

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Chapter 1. Introduction

For decades, and in some cases more than a century, states throughout the Global South pushed to uphold and strengthen strict norms of non-interference. Because of historically high levels of material weakness and external dependence, these states tend to benefit from international norms and rules that base sovereign authority on legal recognition and shared norms of legal equality, rather than predicating state existence on material power.[1] Nearly all have experienced long periods of colonial and imperial domination, along with recent and often significant experiences with formal occupation, military intervention, and meddling in their internal affairs. Accordingly, limiting this kind of meddling, pressure, and interference from other, more powerful actors has been an important foreign policy goal. Strict norms of sovereignty and non-interference have been one of the central means through which they have tried to achieve this.

Yet, beginning in the 1970s and accelerating after the end of the Cold War, protectiveness over the norm of non-interference began to give way in some regions of the Global South to a proliferation of regional organizations with formal powers to engage in a wide range of political issues in their member states. Human rights were one of the first and most consequential issues for which this took root. What explains this change? The states handing over this power were still quite weak relative to the developed world. Many were only recently independent, and since their independence, they had been vigilant to the imposition of external authority in the form of imperialism or neo-colonialism. Why, then, did they make the decision to create, expand, and accept institutions limiting their sovereign authority and legitimizing external interference?

This change has been most pronounced in Latin America[2] and Africa, with interventionist authority extensively institutionalized in a number of regional and sub-regional organizations. Latin American regional organizations now have robust institutions for monitoring and enforcing human rights, with states establishing and expanding the powers of independent human rights commissions and courts that can now engage in investigative missions and criticize violations. Since the 1970s, these institutions have mounted substantial challenges to state authority.[3] Most recently, the Caribbean Court of Justice was given jurisdiction to decide cases on "fundamental rights," resulting in controversial rulings against the death penalty in Barbados and against laws that discriminate against LGBT populations in Guyana and Trinidad. The Organization of American States and Mercosur have created rules that allow for suspension of membership for states that violate democratic norms or human rights on a large scale, with Venezuela having been suspended from Mercosur since 2016.[4]

In Africa, the African Union (A.U.), which was created in 2000 to succeed the Organization of African Unity, was the first international organization in the world given the authority to intervene in its member states—including militarily—in cases of war crimes, genocide, crimes against humanity, and threats to political order.[5] This was part of what has been referred to as a shift in regional norms from "non-interference to non-indifference."[6] This shift

[1] Clapham 1996; Jackson 1990; Jackson and Rosberg 1982; Krasner 1985, 1999.
[2] By Latin America, I mean South and Central America and the Caribbean.
[3] Sikkink 1993, 2014; Keck and Sikkink 1998
[4] "Mercosur suspends Venezuela over trade and human rights" 2016
[5] African Union 2000: Article 4(h)
[6] Kioko 2003; Williams 2007

has accompanied moves by the A.U. and a number of subregional organizations to send peacekeeping missions, mediate civil conflicts, and respond to "unconstitutional changes in governance" (i.e. coups) by suspending membership or even engaging in military intervention. A continental human rights commission was established in 1987, followed by a court in 1998. In 2005, the Economic Community of West African States (ECOWAS), a sub-regional organization, gave its Community Court of Justice sweeping authority to receive complaints of human rights violations from citizens of ECOWAS member states and to issue legally binding rulings.[7]

The growth of regional human rights mechanisms aligns with an overall trend, which has accelerated since the end of the Cold War, towards a major increase in the number of regional organizations, the amount of authority they are granted by states, and the range of issues they are empowered to deal with, a trend which has been documented in literature on the "new regionalism."[8] What explains the shift from strict adherence to the norm of non-interference to the proliferation of regional human rights mechanisms with extensive authority to monitor, issue orders and condemnation, and in some cases even militarily intervene in member states? As I demonstrate in this dissertation, this development was not at all a forgone conclusion by the early 1970s. It involved a sharp reorientation towards human rights by states in the Global South and a shift away from alternative human rights priorities and foundational ideas they held about human rights. It occurred as part of a strategic push towards regionalizing human rights, establishing regional organizations as a legitimate and effective place for human rights to be enforced against concerns that this would undermine universalism.

This move towards human rights regionalism raises a more fundamental question: How did regional organizations in the Global South, once judged to be so utterly incapable of policing the domestic behaviors of member states and so rigidly bound by norms of non-interference,[9] come to be accepted as central to global governance in such a sensitive and highly political area? Regionalism was never a certain outcome, nor was it even a desirable one, from the perspective of many proponents of the United Nations and human rights. From the early post-war period through the end of the Cold War, some feared that regionalism would create blocs of the sort that contributed to the outbreak of World War II.[10] Similarly, some human rights proponents worried during the 1970s that regional charters and enforcement bodies would undermine the universalism of human rights.[11] However, today, regional organizations are taken for granted as having a central role to play in the work of the global governance, in general, and human rights, in particular.[12] Why have these earlier debates been resolved so decisively in favor of regionalism?

At the same time, the shift towards a more permissive attitude with respect to international interference did not happen everywhere. Though there has been significant regionalism in the Middle East and Southeast Asia, the norm of non-interference has remained far more intact. The regional human rights mechanisms that have been created came about much

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[7] Alter *et al* 2013

[8] Acharya 1994, 2004, 2007, 2009; Acharya and Johnston 2007; Börzel and Risse 2016; Buzan and Waever 2003; Fawcett 2004; Fawcett and Hurrell 1995; Fawcett and Seranno 2005; Katzenstein 2005; Milner and Mansfield 1997; Hettne 2000; Hettne *et al* 1999; Söderbaum 2016; Söderbaum and Shaw 2003

[9] Acharya 2004; Acharya and Johnston 2007: 21, 267; Aggarwal and Chow 2010; Barnett 1995a, b; Braveboy-Wagner 2009; Cabranes 1967; Drier 1968; Farer 1997; Umozurike 1979

[10] Barnett 1995a; MacDonald 1965: 4-11, 19; Yalem 1962: 461-461

[11] Vasak 1982: 451

[12] European Parliament 2009: 5; Sahraoui 2004: 339; Voeten 2017

later, have weaker powers, and are subject to greater state control. In the Middle East, the League of Arab States actually moved early to create a regional human rights commission, forming one in 1968. Yet, this commission was comprised of government representatives, limiting the likelihood that human rights concerns could overcome power politics and diplomacy, while its powers were limited to facilitating dialogue, raising awareness, and coordinating member states' external advocacy. In practice, its work focused almost exclusively on advocating for the rights of Palestinians.[13] A string of proposals for expanding on the organization's regional human rights institutions in the 1970s and 1980s failed to go anywhere. A human rights charter, which would establish a new regional commission, was finally adopted in 1994, but was widely criticized and failed to receive a single ratification.

It was only in 2008 that a human rights charter and commission finally came into existence, followed by a statute for a human rights court in 2014, although to date the court has been ratified only by Saudi Arabia. Neither the commission nor the court can receive information about human rights violations from individuals within member states, considered a crucial piece of a human rights enforcement regime. They are instead reliant on member states themselves to bring attention to human rights violations through self-reporting, inter-state complaints, or, in the case of the court, an optional provision for complaints from state-approved NGOs.[14]

In Southeast Asia, there was no institutionalization of human rights in any form for decades, with states assiduously upholding the norm of non-interference.[15] Even in the 1990s, when sovereignty norms increasingly gave way to humanitarian cosmopolitanism, states in the region responded to the push to accept changing norms by modifying them to preserve non-interference.[16] In 2009, the Association of Southeast Asian States (ASEAN) finally established the ASEAN Intergovernmental Commission on Human Rights. However, this commission has no authority to challenge member states or even to consider their internal human rights records. It is also, as its name suggests, a commission composed of government representatives rather than independent human rights experts.[17] The ASEAN Human Rights Declaration which was adopted in 2012 is not legally binding, and as such, it institutionalized human rights without actually compromising on the norm of non-interference.

In this dissertation, I offer an explanation for this change in approach towards non-interference and for variation in the timing of this change between regions, including whether it happened at all. Central to this explanation is an answer to why this change has happened in a way that favors regional enforcement of human rights. I argue that the decision by states to delegate challenging authority to regional organizations represented a strategic effort by states to trade sovereignty for self-determination—to compromise on the norm of non-interference in order to limit the unwanted imposition of authority by more powerful actors and to increase their ability to meaningfully influence the design and enforcement of international human rights.

To make this argument, I extend the concept of self-determination, defined as self-rule, to incorporate self-determination over international rules. As I conceptualize self-determination over international rules, it requires states, and by extension the people within them, to be able to *domestically affirm* international rules, meaning the decision to accept them results from domestic decision-making processes, and *meaningfully participate* in their implementation, or to

[13] An-Na'im 2001: 712-174; Van Hüllen 2015
[14] League of Arab States 2004: Article 48, 2014: Article 19
[15] Acharya 2004; Aggarwal and Chow 2010
[16] Acharya 2004
[17] Association of Southeast Asian Nations 2009

take part in and influence the design and implementation of rules to which they are subject, relative to other states.

For many states in the Global South, their material weakness and dependence on external resources leave them vulnerable to challenges to their self-determination. Though they accept international rules in ways that are formally voluntary, these decisions are often made in the expectation that openly rejecting, contesting, or exiting a particular authority relationship or set of rules will be costly, lead to retaliation, or simply fail.[18] Having accepted international rules, they frequently lack the ability to make substantive contributions to the deliberative process through which decisions about implementation are made. Instead, their participation is often limited to their formal presence during decision-making or their mere membership in international organizations within which rules are implemented.

In the case of human rights, challenges to their self-determination took the form of Western states tying human rights to economic relations. The use of economic carrots and sticks allowed Western states to impose human rights policies, while starkly limiting target states' ability to exercise any meaningful influence over their implementation. It created a system for human rights enforcement in which the Global South was held up for one-sided judgment and punishment by Western governments. This did not only affect states that were abusing human rights. States that respected and promoted human rights also became subject to these policies and forms of implementation, and their self-determination was also challenged.

I argue and provide evidence to show that state actors—leaders, elites, citizens, and domestic interest groups—are not indifferent to having their formal sovereign authority circumscribed in this way. For states that engaged in protracted struggles for the right to self-rule in the form of sovereign independence, they strongly objected to these challenges to their sovereign authority and political independence. Notably, these objections came not only from representatives of states that were themselves abusing human rights. Criticisms also came from states that were themselves supporters of human rights and who respected them domestically, but who were nevertheless made subject to these new rules via their widespread institutionalization and application. This had the result of uniting long-time democracies and military dictatorships in a joint effort to push back against these pressures, in part by institutionalizing human rights within their regional organizations.

Delegating authority to their own regional organizations, rather than a sign that they had come to accept human rights norms, represented a form of quiet resistance against these challenges to their self-determination. In fact, the very weakness and dependence that makes states vulnerable to having their self-determination undermined also increases the costs of overtly contesting or resisting unwanted authority while decreasing the likelihood that such resistance will be successful, making them less likely to engage in these behaviors. Instead, they may find quieter or more subtle ways of resisting unwanted pressure or authority. By creating, accepting, and expanding regional human rights mechanisms and then arguing that outside actors should accept and even defer to the authority of these mechanisms, states were attempting to resist the unwanted imposition of human rights.

The development of regional human rights mechanisms happened unevenly across regions because challenges to states' self-determination were themselves uneven. In Latin America and Africa, the tying of human rights to economic relations by states in the West presented a major challenge to their self-determination. They responded by compromising on the norm of non-interference, empowering their regional organizations to enforce human rights and

[18] Gruber 2000; Moe 2005; Pierson 2015

then attempting to establish these regional organizations as authorities over human rights within their region. In doing so, they created an alternative authority that would enhance regional influence over human rights and its enforcement in their region. By contrast, in the Middle East and Southeast Asia, similar challenges to states' self-determination did not arise, and there was simply no need for them to soften or alter their stance on non-interference. As a result, moves towards creating regional human rights mechanisms happened much later than in other regions and, as of yet, have not resulted in mechanisms that are truly challenging to state authority.

1. Self-determination, the Global South, and weak states in IR theory

This dissertation makes a number of theoretical contributions to international relations scholarship. It offers a different understanding of the purpose of regional organizations in the Global South—why states created them, what they hoped to accomplish, and the purposes for which they use them. One important reason they were created, and an ongoing goal of these organizations in the decades after independence, was to establish for themselves international conditions amenable to self-rule. Adom Getachew describes this as the condition of international non-domination, which she argues was viewed by anti- and post-colonial leaders as a necessary condition for national self-determination following independence.[19] Getachew focuses on the international conditions necessary for self-determination, highlighting a number of ways that leaders used different forms of international cooperation and delegation to achieve this. However, she does not address how or under what conditions giving up sovereign authority by engaging in international cooperation or delegation would itself be consistent with self-rule or, alternately, would compromise or diminish self-determination.

Additionally, Getachew notes that these far-reaching and radical visions for "worldmaking" fell away in the 1970s, as post-colonial states became more invested in their own sovereignty, and as efforts to defend the nation against external pressures led to a hardening of authoritarianism in many states.[20] However, I argue that at this time states across the Global South began to use a new, more accommodationist approach for realizing self-determination, which involved taking over the rules being pushed for by powerful states, attempting to move them into their own regional organizations. The issue of human rights was among the first and most significant challenges to the sovereignty authority of post-colonial states in the decades after decolonization, and it was the first issue area for which states in the Global South attempted this strategy.

This research also adds to scholarship on regionalism by problematizing the norm of regional solutions to regional problems. A great deal of existing scholarship has challenged the naturalness of regions,[21] instead asking how regions are formed and how they become meaningful such that they come to take on a quality of "regionness."[22] At the same, there has been less work that questions the naturalness of regions as legitimate sites for policymaking, asks how a norm of regional solutions to regional problems came to be consolidated, or attempts to

[19] Getachew 2019: 33
[20] *Ibid*: 178-179
[21] Adler *et al* 2006; Barnett 1995a; Dirlik 1992; Hurrell 1995; Hemmer and Katzenstein 2002; Hettne 2005; Hettne and Söderbaum 2000; Waever 1993
[22] Hettne and Söderbaum 2000

understand why and under what circumstances actors from outside of a region, including powerful states, would accept and defer to this norm.

I offer insight into these questions by identifying regionalization as a strategic response to external pressures and attempts to impose authority. Existing scholarship points to regions as sites of resistance.[23] I add to this by arguing that the very idea that regional organizations are especially well-suited to dealing with issues within their regions and are entitled to representation in global decision-making arose, in part, as a form of resistance. Rather than this norm being a reflection of the natural legitimacy or effectiveness of regions, states actively drew from and constructed this norm as a way of limiting outside pressures. This norm certainly existed before it was employed in the 1970s in support of the regionalization of human rights. However, human rights represent an important case of the strategic deployment and development of this norm. It was also an important moment in the transformation of this norm away from being consistent with and bolstering the norm of non-interference and towards requiring regional organizations to be treated as authorities with respect to interventionist activity.

In addition to research on regionalism, in particular, this dissertation also speaks to theories of international delegation, cooperation, and authority more broadly, especially as they apply to weak states, or those that are materially weak and have high levels of dependence on external support and resources.[24] Models of international cooperation and delegation are based on a conception of autonomous actors engaging in voluntary cooperation. Yet, this fails to capture the reality for many states in the international system.[25] Weak states lack what Hanna Pitkin refers to as "power-to,"[26] or ability to accomplish things on their own, independent of any relation to or interaction with other states. For these states, independent or unilateral action is frequently not a realistic option. Additionally, low relational power, or "power over," defined as the ability to have an effect on the actions of others,[27] leaves these states "subject to external pressures that they cannot influence through unilateral action."[28]

Things like high levels of economic and security dependence, small or ineffective military forces, and reliance on preferential access to export markets make these states dependent on external support and assistance and leave them with few options for exit or effective exercise of voice.[29] Their external reliance can limit their range of realistic policy options to those that are viewed as acceptable to great powers, donor states, or key trading partners. Because of their weakness, these states are also vulnerable to having their dependence "weaponized,"[30] with external authority imposed by more powerful actors through subtle coercion or the rational anticipation of punishment or retaliation. As a result, the decision of weak states to delegate

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[23] Acharya 2004, 2007, 2009, 2011; Hettne *et al* 1999; Tussie 2009

[24] While the term weak is no longer fully accurate for many states in the Global South, particularly countries like Brazil and South Africa, the designation of states in the Global South as weak is much more appropriate during the time period I examine, which is the 1960s through the end of the Cold War. Additionally, in spite of the growing power of many states in the Global South, they have continued to employ coalitional strategies that involve them working together with other, still-weak states rather than joining with other powerful states in the West (Grovogui 2011a; Johnson and Urpelainen 2020).

[25] See Moe (2005) for a discussion of the ways that models of institutions overstate the extent to which they are "structures of voluntary cooperation." See Gruber (2000) for a discussion of the reasons weak states would join an institution that makes them worse off.

[26] Pitkin 1972: 276-279

[27] Barnett and Duvall 2005; Dahl 1961

[28] Krasner 1985: 4

[29] Hirschman 1970

[30] Farrell and Newman 2019

sovereign authority or to align their policies with other states is fundamentally different than for more powerful states.

Instead, the decision-making of many states is structured and constrained by relations of inequality, subordination, and dependence. The decisions of governments of weak or dependent states to cooperate, delegate, or accept international interference may be deeply affected by their understanding of their strategic environment and how it is structured by underlying inequality or dependence. More recent theorizing on international hierarchies has examined this overlying structure, challenging the idea of consent-based participation in unequal or hierarchical relations and instead exploring resistance, coercion, socialization, and naturalization of subordination as common dynamics within hierarchical relationships.[31] Looking at decisions to delegate through this lens, rather than cooperating because they see doing so as minimally beneficial or legitimate,[32] in some cases, states may rationally anticipate that openly rejecting or contesting a particular authority relationship or set of rules will be costly, lead to retaliation, or simply fail, and they may choose to delegate to avoid these outcomes.[33] In this way, weak states in unequal systems may recognize and object to their own subordination even while they operate within its constraints.

It is necessary to look at decisions to delegate authority to enforce human rights in the context of the actual decision-making environment weak states encounter and taking into consideration the different types of delegation decisions weak states have available to them. I argue that what is often taken for legitimation of authority, voluntary delegation or alignment of policies, and acceptance of their own domination are, in some cases, actually resigned acquiescence or everyday resistance.[34] Leaders of weak states, acting rationally, often acquiesce to the preferences of more powerful actors without the powerful actors needing to take any steps to pressure or coerce them. At the same time, they find ways of exercising agency, engaging in resistance, and increasing their influence and freedom of action within these constraints and through approaches that are more suited to their international position. These include reluctant compliance,[35] mimicking compliant behavior,[36] soft balancing,[37] or strategically telling more powerful actors what they want to hear.[38]

As I argue in this dissertation, one such strategy can be to establish their regional organizations as authorities over an issue area. As a result, rather than international cooperation and delegation necessarily reducing national discretion over policymaking, as research often assumes is the case,[39] for weak states, cooperating and delegating significant sovereignty authority can actually *increase* their national discretion over policy and expand their available policy options relative to independent or unilateral action. In fact, I argue that the drive to preserve or enhance self-determination helps to explain much of the collective action of states in the Global South.

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[31] Getachew 2019; MacKay 2019; Mattern and Zarakol 2016; Pouliot 2017; Zarakol 2017
[32] Abbott and Snidal 1998; Hawkins *et al* 2006; Ikenberry 1998; Ikenberry and Kupchan 1990; Keohane 1984; Koremenos *et al* 2001; Lake 2009; Nye 1990; Stone 2008; Tallberg and Zurn 2019; Wendt and Friedheim 1995
[33] Gruber 2000; Moe 2005; Pierson 2015
[34] Scott 1985
[35] *Ibid*: 26.
[36] Hyde 2011
[37] Friedman and Long 2015; Pape 2005; Paul 2005
[38] Bayart 2000; Scott 1990; Tieku 2013
[39] Abbott and Snidal 2000; Bradley and Kelley 2008; Epstein and O'Halloran 2008; Hafner-Burton *et al* 2015; Moravcsik 2000

I also add to scholarship on international norms. Much of this scholarship tends to expect that states that respect and promote a norm like human rights will also uniformly support its enforcement, particularly where they are not the target of enforcement. Operating under a logic of appropriateness, these states will support human rights enforcement for principled reasons, because they value human rights and want to see a reduction in human suffering, because that is what a moral foreign policy involves, or because it is simply what modern states do.[40] Operating under a logic of consequences, states that support human rights have material incentives to accept and support its international implementation.[41] Where states support human rights in some instances but not others, it can be explained as "organized hypocrisy," or states simply acting according to a logic of consequences dictated by national interest rather than a logic of appropriateness.[42]

I provide a different understanding of why state may support human rights while, under some circumstances, objecting to its enforcement. Rather than this simply being a case of states supporting a norm only when it benefits them, I argue that states may genuinely care about human rights but view certain forms of implementation as inappropriate. As I show in this dissertation, states in the Global South viewed the use of economic pressure to enforce human rights as itself a violation of the right to self-determination and the right to development, and also as contrary to norms of legal equality, partnership, and universal representation.[43]

Finally, this dissertation also adds to a growing body of scholarship on the history of human rights. This scholarship has identified the 1970s as the moment when the modern human rights regime took shape. It was at this time that human rights, as they are presently understood and implemented at the international level, became consolidated.[44] I identify two important and under-explored pieces of this change. The first is the regionalization of human rights, with regional organizations coming to represent one of the main pillars of international human rights enforcement. I show that this regionalization was a strategic response to another change that occurred at this time—the sudden incorporation of human rights into the foreign policies of Western states.[45] Second, I explore the consolidation of an understanding of human rights in which state governments are responsible only for the rights of people within their own borders, alongside the elimination of "extraterritorial obligations" as a core part of realizing human rights. It is only in recent years that this idea of international responsibility for human rights has started to be recovered in both scholarship and international advocacy.[46]

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[40] Börzel and van Hüllen 2015; Finnemore and Sikkink 1998; Hafner-Burton and Tsutsui 2007; Hafner-Burton *et al* 2008; Keck and Sikkink 1998; Kelley 2008; Lutz and Sikkink 2000, 2001; Meyer *et al* 1997; Meyer and Rowan 1977; Min Wotipka and Tsutsui 2008; Risse-Kappen *et al* 1999; Risse *et al* 2013

[41] Hafner-Burton 2005, 2008; Hafner-Burton *et al* 2015; Hyde 2011; Kelley 2008; Moravcsik 2000; Pevehouse 2002, 2005; Russett and Oneal 2001

[42] Krasner 1999

[43] On legal equality see Finnemore (2003). On universal representation, see Finnemore and Jurkovich (2014). On partnership, see Oyuwemi (1991).

[44] Borstelmann 2013; Brier 2015; Burke 2015; De Waal 2003; Eckel 2019; Eckel and Moyn 2013; Kelly 2013a, b; Lorenzini *et al* 2021; Mohandesi 2017; Morgan 2011; Moyn 2010. There is some contestation over this claim about the 1970s, but this relates to questions regarding how to understand the changes that took place in the 1970s (Anghie 2013), the degree to which there is continuity between the 1970s and earlier periods (Hoffmann 2016: 280-281), whether or not later periods were more significant (Hoffmann 2016), and the precise starting point of these shifts (Jensen 2016).

[45] Burke 2011; Eckel 2019: 190-242; Lorenzini *et al* 2021; Sikkink 2004

[46] Dehm 2019; ETO Consortium n.d.; Nelson and Dorsey 2008

2. Trading sovereignty for self-determination over human rights

I argue that states in the Global South created, accepted, and expanded regional human rights enforcement mechanisms in response to the onset of pressures that challenged their self-determination over international human rights. Beginning in the mid-1970s, states in the Global South faced mounting pressure from transnational advocacy networks, donor states, and important allies to consent to international human rights enforcement. Western states themselves faced sudden pressure from their citizens and international audiences to act on human rights violations. Governments of Western states responded to this pressure by tying access to economic cooperation to states' domestic human rights records and increasingly weighing their relations with developing states against international and domestic demands—and their own growing desire—to privilege human rights in their foreign policies. This was perhaps most memorably deployed by Jimmy Carter's presidential administration, but during this same time, it was also adopted by a number of European governments, notably the United Kingdom, the Netherlands, and the Nordic countries, and it was introduced into the external policy of the European Community beginning in the second half of the 1970s.[47]

Initially, these enforcement efforts took the form of *ad hoc* responses to the most extreme cases of human rights violations, like those in Chile under Augusto Pinochet and Uganda under Idi Amin. However, Western states soon expanded their enforcement policies by introducing human rights conditions into their relations with a wider range of developing states, rather than just those that committed gross violations of human rights. They also shifted from applying sanctions only in the most serious cases to adopting a system of pressure and inducements to increase the overall observance of human rights around the world. Huge portions of the Global South could now expect that human rights would factor into their economic relations with the West.

Prior to the 1970s, human rights had been primarily embedded in bodies in the U.N. in which there was a high level of formal equality of states. Informally, Western states had largely deferred to the Global South on human rights within these bodies. The value of regional approaches to human rights was contested, and what regionalization of human rights had taken place was limited and operated autonomously from the U.N. system. Additionally, the type of human rights that were advocated for within the U.N. at this time emphasized an international model of responsibility that was aimed, in part, at expanding the ability of states in the Global South to meaningfully exercise sovereignty and to enhance state capacity via non-interference and the right to development assistance.

These new enforcement strategies that were used by Western states created a new set of human rights policies to which the Global South was subject, but which were designed and implemented in contexts where the latter was unable to influence them. For states that became subject to them, these new enforcement pressures diminished their self-determination over global human rights policy, establishing an entirely new set of policies that were designed without regard to their human rights priorities and implemented without their input. This was, in fact, largely the point of introducing human rights conditionality into economic assistance and trade relations.[48] This changed the decision-making calculus of states on the receiving end of this new pressure. It was no longer a question for these states of *whether* human rights would be enforced in ways that compromised on the norm of non-interference, but *who* would enforce them and

[47] Eckel and Moyn 2013; Keck and Sikkink 1998; Lorenzini *et al* 2021; Moyn 2010; Sikkink 1993
[48] Hafner-Burton 2010

how. If human rights were going to be enforced no matter what, leaders of these states would rather they be enforced in institutional settings where the decision-making rules ensured that they could maintain a say in human rights priorities and implementation and where they would not be held up for one-sided judgement.

As a result, these states made a strategic decision to trade sovereignty for self-determination, compromising on non-interference by creating, accepting, and expanding regional human rights mechanisms. They then attempted to persuade extra-regional actors—including Western states, international NGOs, and bureaucrats of global intergovernmental organizations—that regional organizations were legitimate authorities over human rights within their regions and should be given a voice over human rights enforcement being carried out within their geographical domain.[49] In many cases, they argued that regional organizations were the *more* appropriate authority to handle human rights, and extra-regional actors should defer to them. In doing so, they attempted to take over the implementation of human rights, moving it into their own regional organizations.

In order for this strategy to work, these states had to persuade extra-regional actors that regional organizations should be regarded as a legitimate authority over human rights. To do this, they had to design regional mechanisms in a way that would convince these outside actors that they would work, and they had to actually accept and cooperate with them. Regional mechanisms needed to be designed with some power to interfere in states' internal affairs by investigating and commenting on domestic human rights violations. They needed to have some independence from member state control. Finally, they needed to be empowered to engage with the specific human rights that these extra-regional actors cared about, which were primarily physical integrity rights and, later, civil and political rights. States with authoritarian governments or that were abusing human rights were willing to create stronger mechanisms than they otherwise would in order to deter or manage extra-regional enforcement.

Yet, as past research has established, human rights were often subsumed to other important economic and strategic concerns in Western foreign policy.[50] Throughout the West, states tended to apply human rights pressure where it was relatively cheap—meaning there were few tradeoffs or chances of it damaging other important priorities—and easy—where pre-existing relationships and institutions were available into which human rights could be introduced and there was a high likelihood of success. This resulted in what then Director of Policy Planning for the U.S. State Department referred to as "regional discrimination."[51] The United States and Western Europe faced similar constraints in designing their foreign policies, including the massive increase in oil prices, Cold War politicking, and a global recession; similar opportunities, in terms of the regions in which they had substantial leverage;[52] and similar foreign policy goals, including establishing peace in the Middle East and maintaining access to oil. They independently developed patterns of enforcement that placed emphasis on human rights in Latin America and Africa, while consistently overlooking or down-playing violations in the Middle East and Southeast Asia.

This regional discrimination meant that states in Latin America and Africa faced new and unprecedented pressures in the area of human rights. Leaders of these states, including many

[49] On authority, see Barnett and Finnemore (2004: 20), Blau (1963), Lake (2009), and Tallberg and Zurn (2019).
[50] Dunning 2004; Dietrich and Murdie 2017; Grigoryan 2020; Jamal 2012; Levitsky and Way 2006: 383, 386; Nielson 2013
[51] *Foreign Relations of the United States* (hereafter *FRUS*) 2013, Document 105
[52] On leverage, see Levitsky and Way 2006.

democracies and states with their own excellent records of respecting human rights, regarded the pressures as inappropriate, one-sided, and hypocritical. They also saw them as undermining their own human rights priorities, which at the time included expanding the human right to self-determination and realizing the right to development. However, because these new pressures came in the form of unilateral pressure from the West and the introduction of human rights conditions into international institutions in which they were heavily disadvantaged, they lacked effective means to influence their introduction, content, or application. In response, states in these regions adopted the strategy of taking over human rights within their own regional organizations.

At the same time, in the Middle East and Southeast Asia, human rights remained subsumed to other economic and security concerns in the foreign policies of states in the Global North. Where Western countries did pressure states in these regions on their human rights, the pressure tended to be much more limited and symbolic. While states in these regions did not like having their domestic human rights policies criticized, they continued to respond with reference to the norm of non-interference, and they were able to otherwise carry on as before.

3. Research design

To analyze my argument, I use a historical institutionalist approach, combining historical case studies with quantitative analysis of the broad, over-time and cross-regional trends in delegation of human rights enforcement authority. Historical institutionalism emphasizes the ways that the development and transformation of institutions are the product of power struggles that unfold over time. It gives special attention to timing and sequencing of events, including how the decision-making calculus of political actors and the constraints under which they operate change over time.[53] A historical approach also counters the tendency to see these regional mechanisms from the perspective of a "post-sovereign" world, from which many of the mechanisms created appear somewhat unexceptional and even inadequate. Placing them in their historical context is a reminder that these developments were significant when they happened, marking a major shift in the foreign policies of states that adopted them. This allows for appreciation of the extent to which these changes were, at the time, quite radical, even though they appear to our eyes now to be somewhat unremarkable—the least that we would expect states to do. These represented significant concessions on the part of states that jealously guarded their sovereignty and rejected interference.

There are a number of methodological challenges to assessing the importance of self-determination. It is not possible to directly observe leaders' motivation, and there are incentives for leaders to misrepresent their motivations, as announcing that they are creating regional mechanisms to contest outside enforcement could undermine the perceived legitimacy of regional enforcement. There are also challenges in distinguishing the importance of self-determination from the rise of transnational human rights advocacy in the 1970s. Finally, there is the danger of an ecological fallacy, attributing behaviors and motivations to the region as whole when in fact, different states within the region were behaving differently.

To address these challenges, I derive and assess a set of observable implications which identify distinct behaviors that would be expected if states were motivated by maintaining self-determination. To do so, I distinguish between states that support the norm of human rights and

[53] Fioretos 2011; Mahoney and Thelen 2015; Pierson 2004; Rixen *et al* 2016

respect it domestically, which I refer to throughout as human rights "proponents" and those that do not, or human rights "opponents." Proponents consist of democratic governments, states for whom human rights promotion is a foreign policy goal, and states with an overall high level of domestic respect for human rights. Opponents consist of authoritarian and human rights-abusing states, who stood to be most challenged by human rights.

These observable implications guide my assessment of the evidence surrounding the development, or non-development, of regional institutions, and the transformation, or lack of transformation, in regional norms. To assess the implications, I use a mix of qualitative and quantitative data. Qualitative data consists of newspaper articles, speeches, debate records, resolutions and declarations from international organizations, texts of treaties, declassified foreign policy documents, contemporaneous reporting, and secondary sources. Quantitative data consists of data on U.N. General Assembly voting records and treaty ratification. Additionally, I use a new dataset that I have coded on regional human rights mechanisms. This dataset identifies all regional human rights mechanisms created within regional organizations in the Global South. It includes variables on important design characteristics of each mechanism, such as whether institutional bodies have enforcement authority or whether individuals within member states have access to these institutional bodies through complaints mechanisms or direct elections.

Using the data on regional human rights mechanisms, I examine broad over-time and cross-regional patterns in delegation of authority to enforce human rights, showing that these trends are consistent with my argument in terms of the timing of when states moved to delegate this authority and the degree to which they actually did so. However, there are other possible explanations that could be consistent with the timing and extent of these changes. To identify a causal link between challenges to self-determination and the decision to compromise on non-interference, I develop three in-depth case studies, examining the Organization of American States (O.A.S.), the Organization of African Unity (O.A.U) (now the African Union, or A.U.), and the League of Arab States (Arab League).

I have chosen these organizations because they represent some of the oldest and most important regional organizations in the Global South and because it was in these "macro" regional organizations that states first moved to engage with human rights. These organizations are critical for understanding the decision of states to empower regional organizations with authority to enforce human rights. The first two, the O.A.S. and O.A.U./A.U., are cases where the dependent variable, the compromising on the norm of non-interference, was realized. The third, the Arab League, is a case where the dependent variable was not realized.

I selected the Arab League for carrying out a case study rather than the Association of Southeast Asian Nations (ASEAN) because, within the Arab League, there were early moves to institutionalize human rights in the late 1960s and early 1970s which were curtailed after the changes in Western human rights enforcement in the 1970s. This early institutionalization provides leverage for assessing how the onset of policies challenging states' self-determination over human rights affected state decision-making with respect to regional human rights mechanisms. Examining the Arab League also helps to address two important alternative explanations. The first is that variation across regions was simply the result of pre-existing attitudes towards human rights, and the second is that this variation is explained by the presence of a pan-regional identity. I discuss these alternative explanations more below.

3.1. Overview of Cases

The Organization of American States

The Organization of American States (O.A.S.) is made up of all states in the Western hemisphere, including Canada as of 1990. It was the first international organization in the world to adopt a human rights declaration, which it did prior to both the adoption of the Universal Declaration of Human Rights and the European Convention on Human Rights. Its regional system for human rights enforcement is among the strongest and most effective of any regional organization in the Global South. This is, in part, because of the traditional concordance between human rights, particularly individual rights, and regional norms and priorities. It is also a result of the extent to which democracy took hold within the region beginning in the 1980s.

Yet, as has been well documented, the region long wrestled with the tension between human rights and what was known regionally as the "doctrine of non-intervention."[54] Institutionalizing non-interference became important as states in the region dealt with frequent military interventions by European states in the decades after their independence and then interference, intervention, and occupation by the United States starting at the turn of the twentieth century.[55] Through the early-1970s, this tension was resolved in favor of non-interference, with regional human rights mechanisms being created, but in ways that did not really challenge state authority. For example, the Inter-American Commission on Human Rights, created in 1960, was given authority only to promote human rights in a general way, and several democracies in the region were among those who voted against allowing the commission to receive communications from individuals within member states. The American Convention on Human Rights was adopted in 1969, but as late as 1976, only two states had ratified it.

However, after the 1973 overthrow of the government of Salvador Allende in Chile, the new Chilean government, and soon the region at large, became subject to intense international scrutiny. The U.S. and many European governments took actions like refusing to reschedule loans, voting against new loans in development banks, cutting off security assistance, reducing trade and economic assistance, and cutting off diplomatic relations. In the U.N., Chile, and soon other Latin American states, were singled out for intense targeting, while the efforts of the O.A.S. to address human rights problems in the region were ignored. Even states in the region that were critical of the government of Chile objected to many of these new pressures, along with the disproportionate targeting of the region.

Starting in 1976, one year before Jimmy Carter became president and made human rights central to U.S. foreign policy, O.A.S. member states began to issue resolutions condemning human rights violations in Chile, and they soon moved to target other states. The number of ratifications of the American Convention jumped from two in 1976 to eleven by the end of 1978. They gave new authority to the Inter-American Commission, including a new statute for the commission in 1979 that authorized it to produce and release reports about parties to the American Convention without state approval. Separately, they also significantly increased the commission's budget. At the same time, states in the region refrained from ratifying the Optional Protocol to the International Covenant on Civil and Political Rights, which would allow their citizens to access U.N. enforcement. They also criticized the singling out of the region, voted against human rights resolutions in the U.N. General Assembly, and pushed back against the

[54] Ball 1961; Cabranes 1967; Dreier 1968; Goldman 2009; Sikkink 1996
[55] Finnemore 2003

enforcement of human rights using economic conditions. They increasingly asserted regional authority over human rights, calling for Latin American solutions to Latin American problems.

The case of the O.A.S. is an important one because Latin America was the first region to become subject to challenges to its self-determination over human rights and, in response to these challenges, Latin American states were the first to adopt the approach of taking over human rights within their regional organization. Latin America also represents a case of a region whose regional conception of human rights aligned well with global conceptions of human rights, making this a more clear-cut case of states objecting to the imposition of enforcement, independent of the content of the polices or the expected outcomes of cooperation.

Additionally, an important challenge to their self-determination over human during this time came from the United Nations. I argue that the decision to compromise on non-interference within the O.A.S. was ultimately motivated by economic pressures from Western states. However, the reaction of Latin American states to the pressures within the U.N. highlights that concerns about challenges to self-determination are distinct from concerns about enforcement that reproduces historical patterns of domination. Opposition to enforcement by imperial or colonial powers may instead by distinct from and layered on top of principled opposition to pressures that undermine self-determination.[56]

The Organization of African Unity/African Union

African states did not have the same historical attachment to Western conceptions of human rights as did the states of Latin America. Scholars of the region sometimes characterize African norms as emphasizing the collective good and individual duty to society over strict individualism, although this characterization is not uncontested.[57] In the first years after African states began to achieve independence in large numbers, their engagement with and institutionalization of human rights at the regional and international level was mostly limited to a focus on ending racial discrimination, particularly in *apartheid* South Africa; completing the process of decolonization; and calling for developed states to assist them in realizing economic and social rights, eventually through the right to development.[58] By contrast, they strongly prioritized non-interference within the O.A.U., and their institutionalization of human rights was largely outward-looking, with a focus on supporting liberation movements and pressuring states outside of the region to respect the human rights of Africans.[59]

For several years after Latin America became the focus of international attention, African states were spared the same kind of intense pressure to which Latin America had become subject. In 1977, however, abuses by Idi Amin's government in Uganda began to attract international attention, leading first to restrictions on trade and economic assistance to Ugandan government, and soon after, similarly repressive regimes in Equatorial Guinea and the Central African Empire (now Republic). This quickly led to moves by European states to institutionalize human rights conditions in their relations with all African states in the Lomé Convention, an association agreement governing trade and economic assistance from the Europe Community. Europe was Africa's main trading partner and an important source of economic and security support, and adding human rights conditions to Lomé would have been a highly consequential development.

[56] I am grateful to Desmond Jagmohan for pointing out this distinction to me.
[57] Ake 1987; M'Baye and Ndiaye 1982: 588-589; Viljoen 2007: 305
[58] See Chapters 4 and 7 for more discussion of the human rights priorities of African states during this time.
[59] Murray 2004: 8

African states responded by adopting an O.A.U. resolution in 1979 which called for the drafting of an African human rights charter and a regional mechanism to enforce it, subsequently the African Commission on Human and Peoples' Rights. The charter was adopted unanimously in 1981 and came into effect in 1986.

After this initial compromising on non-interference, the process of building out an enforcement regime happened gradually, slowed in part by low levels of democracy and the presence of major human rights violations in many African states. However, states immediately began to argue for deference to regional organizations. After the Cold War ended, economic conditionality became a much more significant part of relations between the West and Africa. As a result, African states began to push more forcefully against extra-regional enforcement of human rights, to cooperate with and facilitate the activities of the African Commission, and to expand their regional mechanisms, including by creating the African Court on Human and Peoples' Rights and reconstituting the O.A.U. into the much more interventionist African Union.

The marginalization of Africa after the end of the Cold War has not meant less external interference. Rather, it has meant a decrease in the ability of African states to meaningfully impact global decision-making that affects them and, consequently, an increase in the perceived arbitrariness of Western actions towards them. Western states are seen as acting only when it is in their own interest and without consideration of or attention to the input of African states. In other cases, they ignore African calls for intervention, with the most notable example of this being the Rwandan genocide. The region thus suffers from both sides of a lack of self-determination over human rights—the inability to influence enforcement carried out against them, along with the inability to bring about global enforcement when they do want it.

The League of Arab States

Members of the League of Arab States continued to uphold the norm of non-interference for much longer than states in Latin American and Africa, and when they did move to create regional human rights mechanisms, they were much weaker. In contrast to Latin America and Africa, human rights did not become a central component of Western foreign policy in the Middle East. In fact, at the very moment when human rights were being taken into consideration in Western states' foreign policies, a number of major global events that made the Middle East an especially unattractive target for attempting to enforce human rights using costlier tools. Across the Middle East, Western governments prioritized access to oil in the aftermath of the 1973 and 1979 oil crises and resolving the Israel-Palestine conflict over promotion of human rights.[60]

As a result, in contrast to the new willingness to compromise on non-interference that occurred in Africa and Latin America, in the Middle East, there was no reason for states to alter their stance on this norm. This was in spite of the fact that, up to this point, there had been a number of moves towards regional institutionalization of human rights within the organization, including the creation of a regional human rights commission and a proposal, adopted by states, for a human rights declaration. However, as human rights came to present itself as a threat to governments, their interest in regional human rights institutions dried up.

The Arab League finally adopted regional enforcement mechanisms much later, following periods of increased international pressure on the region. States adopted a resolution calling for the creation of an Arab Charter on Human Rights in 2003, during a meeting of heads

[60] *FRUS* 2013, Document 105; Jacobs 2016; Sneh 2008

of state that took place as the U.S. invasion of Iraq was getting underway. The charter, which was to establish a Committee of Human Rights Experts, was adopted in 2004 and came into force in 2008. In 2012, in the wake of the Arab Spring, the king of Bahrain proposed the creation of a regional human rights court, which was adopted in 2014 and has yet to come into force. However, although these mechanisms are, on the face, closer to the kinds of enforcement bodies that exist in other regions, they have been designed with limited interventionist capabilities and extensive mechanisms for state control.[61]

In the Middle East, the lack of real challenges to their self-determination over human rights has allowed states to withstand broader international pressures to compromise on non-interference. In fact, international actors, most importantly the U.S., have prioritized stability and supporting friendly governments, often at the cost of undermining political liberalization within the region.[62] Where regional mechanisms have been created, they have followed moments of increased international pressure on the region, but the pressure has been limited by their continued strategic importance. These states are also less vulnerable to these pressures and have leverage of their own with which to counter the pressure. Rather than delegating authority that would involve a genuine shift in regional norms away from non-interference, they have created regional organizations that are aimed at giving the appearance of accepting commitments and mimicking human rights enforcement, while creating controls over them that limit the possibilities for real enforcement.[63]

5. Outline of the dissertation

In Chapters 2 and 3, I develop my conceptual and theoretical framework. Chapter 2 discusses the concept of self-determination as international self-rule and how this concept differs from sovereign independence. In particular, I draw out the distinction between instances where sovereign authority is transferred through voluntary delegation and those where sovereign authority is usurped, and rules or authority are imposed. Chapter 3 then uses the concept of self-determination to build an argument that states in the Global South delegated sovereign authority to their own regional organizations as a way of maintaining and increasing their self-determination over international human rights. I explore existing and alternative explanations and derive a set of hypotheses that tests my theory against these other explanations.

Chapters 4 and 5 provide the overall global context in which the regionalization of human rights took place and provide a wide, cross-regional view of the subsequent changes. Chapter 4 examines global human rights in the years before and immediately after the human rights "breakthrough" in the 1970s. I establish the ways in which their regionalization of human rights departed from their earlier advocacy and priorities. It was not the case that these states were unengaged with human rights prior to the 1970s. Instead, their advocacy, and the conception of human rights that they advocated for, looked very different from the kinds of human rights activity that their regional organizations came to undertake. One crucial difference is that the human rights priorities that they were pursuing—namely with respect to the right to self-determination and the right to development—were aimed at preserving and even bolstering non-

[61] Van Hüllen 2015
[62] Baxter and Akbarzadeh 2012; Carothers 2003; Chase and Hamzawy 2008: 9; Esposito and Piscatori 1991; Hamid 2011; Jamal 2012; Wang and Wang 2012
[63] Van Hüllen 2015

interference. They expressly prohibited the kinds of human rights enforcement that Western states came to employ. I explore what these enforcement policies looked like and how they challenged the self-determination of states that were subject to them.

In Chapter 5, I turn to explaining cross-regional variation in both the timing and extent of the decision to compromise on non-interference with respect to human rights, comparing broad patterns of delegation in Latin America, Africa, the Middle East, and Southeast Asia. I demonstrate that Western enforcement pressures were affected by competing political concerns in ways that led to some regions being targeted by these new policies while others were exempted from them. I then show that cross-regional delegation patterns align with the onset of these pressures using data on the design of regional human rights mechanisms.

Having established these broad cross-regional trends, in Chapters 6, 7, and 8, I turn to the in-depth case studies of individual regional organizations. In Chapters 6 and 7, I assess the evidence that the decision by states in Latin America and Africa to create, accept, and expand regional human rights enforcement was a response to challenges to their self-determination over human rights. Chapter 8 examines the case of a region that did not undergo this change: the Middle East. In the League of Arab States, states continued to uphold the norm of non-interference to a far greater degree, despite early institutionalization of human rights. I examine the absence of change in this region during the time that the other regions were beginning to compromise on non-interference. I then explore later moves to create regional mechanisms, which continued to be limited by the strategic importance of the region to the West and the prioritization by Western governments of regional stability over reform.

Finally, in Chapter 9, I conclude by summarizing the argument and findings and exploring its wider implications. I consider what this history and the dynamics that led to the changes explored in this dissertation can tell us about changes going on in the world today, in a time of power shifts, backlash, and rejection of the international liberal order. I consider the ongoing importance of self-rule as a motivating factor for states in the present-day and the implications of human rights—a discourse intended to empower people and provide them with the agency to realize their own freedom—being implemented in ways that have the effect of undermining self-rule and limiting political agency.

6. Competing explanations

There are a number of competing explanations that could potentially explain the decision by states in some regions to compromise on the norm of non-interference by delegating authority to their regional organizations. In this section, I will briefly review each of these and discuss how they differ from or interact with my argument. Many of these "competing" explanations are in fact compatible with my argument, overlapping with or accounting for parts of my argument. Conversely, in many places, my argument filling in gaps or uncertainties left by these explanations and increases our understanding of the complex dynamics that have influenced these regional changes.

6.1. Hiding behind weaker mechanisms

One competing explanation is that states may have created and accepted regional mechanisms as a type of forum shopping,[64] creating and then opting into mechanisms that allow them to deflect or sow doubt about external criticisms, while offering them greater flexibility, incurring fewer sovereignty costs, and lowering the risk of being the subject of costly punishment.[65] A variation on this explanation is that states were simply trying to avoid more challenging economic conditions. States were willing to create and accept regional authority as a way to hold off or reduce the extent of human rights conditions being added to economic agreements or applied in response to human rights violations.

This explanation is ultimately about state motivation. Were states simply attempting to avoid other, harsher forms of enforcement, or were they attempting to increase their ability to influence and participate in the design and implementation of human rights policy to which they were subject? There are a number of reasons why the first of these explanations does not appear to entirely account for state behavior. First, though the Latin American and African regional systems both have their shortcomings, I provide evidence that it was nevertheless the case that states were concerned and threatened by these regional mechanisms at the time they created and adopted them, both in terms of how they represented a diminishment of the norm of non-interference and in how they were directly challenged. This explanation conflicts most strongly with the present-day assessments of the Organization of American States' regional system, which a 2010 report produced by the European Parliament described as "well-equipped and effective."[66]

It is also possible for regional mechanisms to have been weaker than their global counterparts while still representing a significant departure from previous attitudes towards non-interference, in which case, the idea of hiding behind weaker mechanisms provides only partial insight into what was going on. Beyond this, it is also factually not the case that the institutions were created at the impetus of states that were directly challenged by outside enforcement. Instead, as I show in the case study chapters, they were created primarily at the initiative of states and individuals within these regions that genuinely supported human rights. States that were directly challenged by human rights enforcement were pushed to cooperate with regional mechanisms and delegate more authority than they otherwise would by the existence of outside pressure.

Finally, if hiding behind weaker mechanisms was the dominant explanation for state behavior, I would not expect states that support human rights enforcement and respect human rights within their own borders to advocate for regional enforcement or to criticize forms of enforcement that they viewed as counter to self-determination. These states would have little reason to expect to be affected by these kinds of conditions, and in fact, they might even benefit from measures that could increase the observance of human rights in their region and which would make them attractive as trading partners and aid recipients. However, as I show throughout, proponents of human rights have consistently been among the most vocal critics of outside forms of enforcement and the strongest proponents of their regional human rights systems.

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[64] Helfer 1999

[65] Kelley 2009; Van Hüllen 2015; Abbott and Snidal 2000; Bradley and Kelley 2008; Epstein and O'Halloran 2008; Hafner-Burton *et al* 2015; Moravcsik 2000

[66] European Parliament 2009: 5

6.2. Norm diffusion and socialization

Another possibility is that states created and accepted regional enforcement mechanisms in direct response to broad normative shifts which exposed them to persuasion, socialization, and shame.[67] They may have created and accepted regional mechanisms as an expression of changing community values,[68] as a tactical concession to reduce pressure;[69] or a result of isomorphic convergence.[70] While this explanation accounts for important aspects of the dynamics observed in the creation and expansion of regional human rights mechanisms, it offers no clear reason why states that genuinely supported human rights and human rights enforcement would criticize some forms of enforcement or express greater support for regional enforcement. I also show in later chapters that states systematically preferred to delegate authority to their own regional organizations over outside bodies like the United Nations, even where enforcement was similarly challenging. This explanation leaves open the question of why states would have shown this kind of preference, especially in later stages of norm internalization.

6.3. Regional preference or regional autonomy

Another possibility, and one that responds to the previous competing explanation's open-endedness with respect to state preferences for regional enforcement, is that states may delegate to regional organizations as a way of adapting global norms to local contexts[71] or because regional mechanisms fit better with regional norms.[72] States may also prefer regional enforcement because of shared norms, culture, history, or trust.[73] Finally, they may also be seeking regional *autonomy*, or exclusion of external actors and influence from the region.[74] Where they associate outside actors with external domination, they may wish to avoid outside actors becoming involved in issues that are internal to the region.

Indeed, as illustrated throughout this dissertation, states do appear to prefer regional forms of authority. However, I provide evidence that it is not the fact that these authorities are regional *per se* that leads to this preference, but the fact that these regional authorities allow them greater opportunities for participation and are more responsive and accountable to them. In other words, norm localization may be a consequence of the ability to meaningfully participate rather than the goal itself. Additionally, even if states did want regional autonomy, in regions that were especially vulnerable to interference from the West, this simply may not have been an option.

States in these regions that support human rights were frequently open and enthusiastic about cooperating with forms of extra-regional enforcement that they perceived as consistent with their self-determination over human rights. Rather than rejecting extra-regional enforcement outright, states in the region that supported human rights made attempts to reform outside enforcement to make it more equitable and less biased and one-sided. It is also the case that regional mechanisms and enforcement often did not clearly reflect regional norms. For example,

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[67] Hafner-Burton 2008; Keck and Sikkink 1998; Kelley 2004; Risse *et al* 1999; Lebovic and Voeten 2009
[68] Finnemore and Sikkink 1998; Hafner-Burton and Tsutsui 2007; Hafner-Burton *et al* 2008; Lutz and Sikkink 2000, 2001; Min Wotipka and Tsutsui 2008; Tallberg *et al* 2020
[69] Risse *et al* 1999, 2013
[70] Börzel and van Hüllen 2015; Meyer and Rowen 1977
[71] Acharya 2004
[72] Aggarwal 1985; Coe 2020
[73] Duursma 2020
[74] Acharya 2011b

the African human rights charter includes content that is argued to be more specific to African norms—including individual duties and collective rights—but also includes all of the individualistic rights that are often seen as "Western."

6.4. Norm fit and meta-regimes

Another possible explanation for why states delegated authority to their regional organization, and why some regions did so while others did not, could be the degree to which global conceptions of human rights cohered with pre-existing regional conceptions of human rights or broader meta-regimes within regions.[75] It is the case that the presence of other norms or identities that cohered with international human rights enforcement and pre-existing fit between regional norms and human rights affected how these processes unfolded within regions. Latin America, in particular, has historically shared a concern for respect of individual rights and civil and political rights at which international enforcement by Western states was targeted. Other regions have other enabling norms that fit well with international enforcement of human rights, delegation of authority to a regional organization, or a general leaning towards cosmopolitanism. These include the existence of a pan-regional identity that can overcome states' jealous guarding of their sovereignty.[76]

With respect to a shared concern for individual rights, this has affected the process of the creation and expansion of regional human rights mechanisms by speeding up the process of adoption and expansion of these regional mechanisms, and by making robust and efficacious enforcement more likely. It does so by limiting the distance that has to be closed between the initial preferences of states and the norms that are created, while also increasing the proportion of states within a region that are inclined towards these kinds of mechanisms. However, because these features are not variable, they do account for the timing of this change, especially why these changes occurred at times when other characteristics made regions especially unreceptive to these norms on account of high levels of authoritarian governance, as was the case with both Latin America and Africa. Additionally, there were conflicts between pre-existing attitudes towards human rights in both Africa and the Middle East and the global conception of human rights that was promoted at this time. Yet, states in Africa were willing to create regional mechanisms that reflected global norms in the early 1980s, while states in the Middle East initially created human rights mechanisms in the 1960s before reversing course. They did not create additional human rights mechanisms until much later, and the mechanisms they created subverted global norms in important ways.

In terms of regional identities that cut against a strong preference for non-interference, while these can matter for the creation of regional mechanisms and the willingness to compromise on the norm of non-interference, it is important to not treat present-day engagement by a region with human rights as evidence that it was always less attached to the norm of non-interference than other regions. As I show, in Latin America, Africa, and the Middle East, all three regions have a history of pan-regional identification, and states in each of these regions developed similar attachments to the norm of non-interference. Yet the shift to compromising on non-interference through creating regional human rights institutions occurred slightly earlier in Latin America than in Africa, and it occurred earlier and more fully in both of these regions than in the Middle East.

[75] Aggarwal 1985; Aggarwal and Chow 2010; Coe 2020
[76] Coe 2020

6.5. Regional liberalization

Political liberalization within a region could also be the explanation for the shift in states' attitudes towards human rights and willingness to compromise on non-interference. As a region's average level of democracy and respect for human rights increases, states within the region may become more amenable to or interested in making international commitments to respect human rights, including by creating their own regional systems for enforcement. States may want to lock in these regional trends and ensure further increases in regional observance of human rights. They may want to improve the region's reputation, or they may be looking for additional ways to lock in or signal their own commitment to reforms, allowing them to attract things like economic assistance, foreign direct investment, tourism, and trade.[77]

In fact, the level of democracy within a region, and especially the process of democratization or liberalization, are important parts of the larger story of the creation and acceptance of human rights enforcement mechanisms.[78] Regions in which democratization takes hold or where the overall level of respect for human rights is high may create mechanisms that are relatively more robust, and they may be more willing to allow them to carry out their mandate and provide more active support for them in doing so. The process of consolidating regional mechanisms and regional human rights norms may happen more quickly in regions with high levels of democracy and respect for human rights, while low levels of democracy or respect for human rights may place an upper limit on the efficacy and robustness of state cooperation with regional mechanisms. States that are undergoing political reforms may attempt to lock in these reforms or send costly signals of their commitment to the reforms by ratifying human rights treaties.[79]

However, this explanation gives us little reason to expect that human rights proponents would actively prefer regional human rights mechanisms or enforcement or that they would criticize global or extra-regional human rights enforcement. Instead, this explanation would lead us to expect that these states would want to ratify treaties that send the strongest signal possible, and to support the most effective forms of enforcement. We would also expect them to want to do whatever they could to continue to lock in gains in human rights across the region and to maximize their region's reputation for respecting human rights. Additionally, both democracies and states that genuinely support the enforcement of human rights have historically been among those that care about the ability of the norm of non-interference to act as a shield against unwanted pressures and interference from more powerful actors. This explanation is not sufficient for explaining the shift in attitude towards human rights and non-interference by these states.

6.6. Regional hegemon

Another possible explanation is that these changes were driven by the preferences of a single powerful state within these regions. Latin America is the region where this explanation is most likely. The United States, a global superpower, is a member of the Organization of American

[77] Blanton and Blanton 2007; Cole 2009; Farber 2002; Garriga 2016; Hafner-Burton *et al* 2015; Hyde 2011; Isham, Pritchett, and Kaufmann 1997; Jensen 2003; Landman 2005; Moravscik 2000; Pevehouse 2002, 2005; Poast and Urpelainen 2013; Pritchett and Kaufmann 1998
[78] Cole 2005, 2009; Hafter-Burton *et* al 2015; Landman 2005; Moravcsik 2000; Neumayer 2007
[79] Moravcsik 2000

States, and it is sometimes suggested that the O.A.S. is simply a tool of U.S. power in the region. More generally, norms of non-interference within these regions were aimed at constraining interference by powerful states from outside of as well as within the region, as Latin American states still worry about interference from the U.S., while West African states worry about the sometimes domineering presence of Nigeria.[80]

As with other explanations, this one provides important insights, but it was not the case that the creation of regional organizations was simply the result of powerful states getting what they wanted within these regional organizations. In fact, international organizations are often an important way for weak states to constrain the behavior of powerful states through rules and norms that are binding on all states, irrespective of their material power. This leaves open the question of why states would have chosen this moment to give up their adherence to a strict stance on non-interference, and in doing so, risked enabling interference by more powerful states. In fact, the creation of *independent* human rights institutions within regions was a way of satisfying outside expectations for legitimate and appropriate enforcement of human rights, while at the same time limiting the degree to which powerful states within the region could misuse the institutions for their own private, political goals.[81]

6.7. Transnational advocacy networks

A final possibility is that these changes were the result of pressure from transnational advocacy networks, which linked together a wide range of domestic and international actors to push for an end to major human rights violations that were being committed by governments.[82] The boomerang pattern, through which transnational advocacy networks link together domestic and international actors collectively exert pressure on governments, works by bringing pressure to bear on governments from the outside. This formed an important piece of the changes that occurred, including by bringing the attention of the Western public to the human rights violations and pressuring Western governments to stop their support for regimes that abused human rights.

However, this explanation does not explain the behaviors of states within these regions that genuinely wanted to see an end to human rights violations but that pushed back against forms of enforcement that violated norms of state equality and partnership. It also overlooks the fact that other human rights—the right to self-determination as realized through non-interference and the right to development as realized through international development assistance—were also important to these states and were undermined by these competing forms of enforcement.

Additionally, "parts" of regional organizations form an important piece of transnational advocacy networks. The Inter-American Commission on Human Rights, in particular, formed an important part of the transnational human rights advocacy network in the 1970s and was central to Keck and Sikkink's discussion of transnational human rights advocacy networks.[83] Yet, international organizations of any sort remain reliant to some degree on the ongoing acquiescence and consent of state governments. This raises the question of why states made decisions to empower their regional organizations to act and to expand their powers and budget, and why they were willing to cooperate with them, even when doing so was costly. In fact, one

[80] Adebajo 2010
[81] Long and Friedman 2020
[82] Brysk 1993; Carpenter 2011; Keck and Sikkink 1998; Lake and Wong 2009; Lutz and Sikkink 2001; Murdie 2014; Murdie and Polizzi 2017; Risse 2002; Sikkink 1993
[83] Keck and Sikkink 1998: 17, 79-120. See also Sikkink (1993).

possibility is that, by empowering regional organizations, states may be attempting to enable a boomerang pattern based on and operating through regional rather than global networks.

5. Conclusion

In the following chapters, I recover and theorize an important foreign policy goal of the Global South. Self-determination at the international level has not been a focus of the study of foreign policy and international relations, in part because it is something that is more important to and more elusive for weaker and non-Western states, while international relations theorizing has tended to focus on great powers and the West.[84] The extension of self-determination to incorporate self-determination over international rules, though not specific to non-Western states, contributes to advancing international relations beyond Western-centric theorizing by acknowledging the political realities and paying attention to the goals and concerns that have formed an important part of the foreign policies of states outside of the West. Self-rule was and remains a core motivation for actors in the Global South, while international conditions continue to make self-rule difficult for many to achieve.

In this dissertation, I bring to light a range of dynamics and empirical findings that suggest that self-determination over international rules is an important part of explaining the behaviors of states in the Global South, whose self-determination continues to be undermined and limited by relations with other states and forms of external domination that exploit their dependence and material weakness. Uncovering the ways that weak or dependent states have subtly contested the imposition of authority can help the appearance of more overt forms of resistance and contestation. As I discuss in the conclusion, this includes contestation of the liberal international order by states that accept core liberal values. This is important, as challenges to international organizations and the U.S.-led world order have become increasingly salient to international politics.[85]

[84] Acharya 2011a; Acharya 2016; Acharya and Buzan 2010, 2017; Epstein 2016; Murray 2020; Shilliam 2010; Tickner 2013

[85] Adler-Nissen and Zarakol 2021; Hooghe *et al* 2019; Tallberg and Zurn 2019

Chapter 2. Self-Determination, Sovereignty, and Weak States

In this dissertation, I argue that states created, accepted, and expanded regional human rights mechanisms as a way of trading sovereignty for self-determination over human rights. By delegating authority for enforcing human rights to their regional organizations, member states of these organizations were attempting to realize greater self-determination. In the empirical chapters of this dissertation, I provide evidence that self-determination over international rules is, in fact, an important motivator for state behavior, accounting for certain aspects of the decision to create, accept, and expand the authority of regional human rights institutions that other explanations cannot, such as the opposition to certain forms of human rights enforcement by states that otherwise supported human rights and respected them domestically.

But what exactly is self-determination over international rules, and what does it mean to delegate sovereignty to increase or maintain it? Why should we think of it as something that would be valued such that leaders would be willing to expend time and resources, surrender pieces of sovereign authority, and submit to international interference in order to realize? In developing my argument and assessing the evidence, it is essential to first clearly develop the concept of self-determination. This includes clarifying how it differs from sovereignty and how it relates to international delegation and cooperation.

In this chapter, I develop a framework for distinguishing between forms of international authority or interference that diminish self-determination and those that are consistent with or even expressions of self-determination. I argue that the relationship between self-determination and the ceding of sovereign authority or surrendering of decision-making autonomy should be viewed in terms of how a state cedes this authority, including whether they are able to exercise accountability over and participate in international rulemaking to which they are subject. This includes the ability for the state and its citizens to meaningfully choose to be bound by international rules and to effectively participate in their design and implementation.

This view of self-determination is consistent with theorizing on individual self-determination in philosophy, feminist theory, and psychology, according to which self-determination is defined not by strict independence or individualism, but by individuals being "causal agents with respect to their own actions."[1] According to this literature, individuals can freely enter into forms of personal or societal relations in which they surrender substantial freedom for the sake of forming meaningful relationships, maintaining membership in a valued group, or participating in cultural practices that provide them with meaning and purpose.[2] Self-determination, according to this understanding, is defined by whether individuals subordinate themselves in ways that they fully or wholeheartedly endorse upon reflection,[3] or whether the action is "intrinsically motivated."[4]

Bringing this back to international relations, states can cede sovereign authority, or even surrender it entirely, in ways that are consensual and volitional, with the concept of intrinsic motivation carrying over to decisions at the international level that are motivated by domestic decision-making, emanating from the preferences, interests, values, and beliefs of domestic actors. To capture this, I extend the concept of self-determination to incorporate self-

[1] deCharms 1968; Deci and Ryan 2000: 233; Ryan and Deci 2006
[2] Mackenzie and Stoljar 2000; Mahmood 2011
[3] Dworkin 1988; Friedman 2003
[4] Deci and Ryan 2000: 232

determination over international rules. This aspect of self-determination refers to self-rule in the sense of governing oneself under *international* laws of one's own choosing.[5] I argue that delegating sovereign authority can be consistent with and even an expression of self-determination if states and their citizens are able to meaningfully participate in the design and implementation of international rules and authority to which they are subject and to domestically affirm the decision to be bound by them. Absent these conditions, international rules and authority are better understood as forms of domination, in the sense of external imposition and usurpation of sovereignty.

The concept of self-determination introduces a distinction between the different ways that states can come to be subject to international rules—highlighting how self-determination can be undermined through the external imposition of international rules and usurpation of sovereign authority. This differs from imposition in the form of "cultural imperialism," where, for example, Western values are imposed on non-Western contexts. In fact, states may be open to cooperating with Western states for the purpose of implementing norms or policies that are identified with the West. Instead, what matters is the process through which rules come to be accepted and implemented.

I suggest that weak states, those with low material power and high levels of dependence on external support, are especially vulnerable to having their sovereign authority usurped and external authority imposed, but in ways that existing research has uniformly treated as voluntary cooperation. These include delegating authority or coordinating policy with other states in anticipation of facing negative consequences if they do not.[6] In fact, weak states often accept international rules or consent to their implementation in ways that are voluntary only in the weakest sense of the word, and where their participation in implementing rules is limited to their formal presence. This distinction is important because, as I show in subsequent chapters, states and the people within them value self-rule, including where it applies to international rules, and will take action to protect and realize it. For this reason, self-determination over international rules is an important piece of explaining behaviors and outcomes at the international level.

1. Self-determination, sovereignty, and international delegation

Self-determination at the international level is often viewed as being realized through sovereign statehood, in the sense of independence from alien or external rule and freedom from outside interference.[7] Attempts to achieve self-determination in this form have manifested in political projects like decolonization, secessionist movements, or the creation of new states.[8] Following from this, existing literature has often equated external self-determination with sovereign independence, with some scholars suggesting that accepting and participating in global governance, through actions like joining and delegating authority to international organizations or ratifying treaties, inherently constrains self-determination and diminishes the ability of the citizens of a state to govern themselves.[9] States, and the people within them, may nevertheless

[5] Dahl 1989: 91
[6] Pierson 2015: 126
[7] Fabry 2010: 9-14; Moore 2014: 133; Walzer 1983
[8] Greenhill 2008; Jagmohan 2020; Lightfoot 2021; Moore 2014
[9] Cameron *et al* 2006; Cassese 1995: 5-12; Fabry 2010: 9-14; Goodman and Jinks 2013; Schmitter and Karl 1991: 81-82; Walzer 1983: 62

make this tradeoff in pursuit of a greater moral good[10] or material gains,[11] to form communities with similar states,[12] or because doing so represents appropriate or normatively desirable behavior.[13]

In fact, though sovereignty can be one means of realizing self-determination, sovereignty is neither necessary nor sufficient for self-determination.[14] This accords with scholarship theorizing a more complex relationship between sovereignty and self-determination, with the two concepts conceptually distinct from and interacting with one another in a variety of ways. Indigenous self-determination, which represents a unique example of self-determination achieved in the form of sovereignty *without* independent statehood, has been an important source of such theorizing. The particular configuration of sovereignty, self-determination, and statehood for indigenous nations, which does not fit into traditional theorizing on sovereignty in international relations, presents a useful framework from which to consider more complex, expansive, and novel understandings of self-determination.[15] This scholarship sees the relationship between self-determination and external authority in terms of the ability for people or nations to make meaningful decisions about their own governance, including to "freely determine their political status and freely pursue their social, economic, and cultural development."[16] As I discuss more in Chapter 4, this way of understanding self-determination was also core to Third World arguments for the right to self-determination in the post-colonial period.

Extended to the realm of states and global governance, this understanding of self-determination involves the ability to make meaningful decisions regarding whether to diminish sovereign authority by accepting international authority or consenting to international interference. Cooperating with other states or accepting outside rules or authority can be consistent with or an expression of collective self-determination,[17] with external self-determination the international analogue of popular sovereignty.[18] States can even pool or delegate sovereign authority in ways that *increase* self-determination.[19]

This introduces a clear distinction between sovereignty and self-determination. Sovereignty entails that a state is both autonomous—it acts independently and holds ultimate decision-making authority both over and within its borders—and exclusive of other authority—outside actors are excluded from involvement in the domestic affairs of the state.[20] When a state coordinates policies with other states, transfers authority to an international organization, or even to another state,[21] or commits to international regimes that entail accepting international

[10] Hidalgo 2015; Lutz and Sikkink 2000, 2001; Walzer 1983
[11] Abbott and Snidal 2000; Green and Colgan 2013; Koremenos *et al* 2001; Keohane 1984
[12] Adler *et al* 1998; Deutsch 1961
[13] Börzel and van Hüllen 2015; Hyde 2011; Kelley 2008; McNamara 2002; Meyer and Rowen 1977; Meyer *et al* 1997
[14] Getachew 2019; Wilder 2015
[15] Kingsbury 2000; Lightfoot 2021; Shadian 2010; Shrinkhal 2021; Xanthaki 2007
[16] Lightfoot 2021
[17] Getachew 2019; Hathaway 2008; Hidalgo 2015: 160-2; Miller 2014: 116; Nine 2014; Umozurike 1972; Yonah and Friedlander 1980
[18] Stilz 2016
[19] Getachew 2019; Miller 2014: 116; Wilder 2015
[20] Krasner 1995, 1999: 20; Osiander 2001; Weber 1995
[21] Krasner 2004; Lake 2009; Matanock 2014

interference, it necessarily diminishes their sovereignty authority and independence.[22] By contrast, self-determination involves the ability for states to make meaningful decisions about how to exercise sovereign authority, including whether to transfer it to the international level. Rather than independence and autonomy, consent is the core feature establishing whether participation in global governance is compatible with or an expression of self-determination.[23]

What does it mean for a state to consensually delegate sovereign authority? Existing theorizing has tended to model all cooperation and delegation, in the absence of overt coercion or open resistance, as uniformly consensual.[24] According to these theories, states make rational decisions to "yield" sovereignty, "subordinate themselves," or voluntarily participate in international organizations or political orders in exchange for benefits or because they view a given institution or political order as legitimate.[25]

These theories tend to view the persistence of institutions or orders, the continuing participation by weak states, and the relatively limited need to use overt carrots and sticks on the part of powerful actors, as evidence that the arrangement is accepted as legitimate and consented to by all states.[26] As Randall Stone has argued, in order for a cooperative arrangements such as international organizations to be legitimate, they must elicit voluntary participation, and in order to elicit voluntary participation, they "must be designed in such a way that all of their members benefit from participating, if not in every instance, at least in expectation."[27] Similarly, David Lake, in his discussion of relational hierarchy, treats participation as a sign both that the relationship is minimally beneficial to subordinate states, and that the subordinate state regards the dominant state's rule as legitimate, or "rightful."[28]

They also expect to see dissatisfaction registered as open contestation that require overt and clearly observable acts of discipline in response. In international organizations, dissatisfied sates will exercise voice or exit, or they will engage in open contestation to register their dissatisfaction.[29] Conversely, according to Lake, "authority is strongest where discipline is the least evident," while the need to employ discipline is "a sign that the relationship is out of equilibrium and is being contested by one or both sides."[30] Nye similarly suggests that overt power struggles are preempted by powerful states using their advantages to set the agenda or establishing the "rules of the game," while weaker states are persuaded to "acquiesce in the legitimacy of the agenda" by the state's exercise of soft power.[31]

In these theories, an absence of overt or open resistance and the lack of need to openly use carrots and sticks implies that participation is not coerced. In the case of international organizations, this is what ensures that these organizations are not simply the tools of their most

[22] Abbott and Snidal 1998; Bradley and Kelley 2008; Epstein and O'Halloran 2008; Hafner-Burton 2008; Hafner-Burton et al 2015; Krasner 1999; Lake 2009; Moravcsik 2000
[23] Hathaway 2008; Hidalgo 2015
[24] Pouliot 2017
[25] Abbott and Snidal 1998; Blau 1963; Ikenberry 1998; Koremenos *et al* 2001; Lake 2009; Nye 1990; Stone 2008; Wendt and Friedheim 1995
[26] Lake 2009: 8-13
[27] Stone 2008: 592-593
[28] Lake 2009
[29] Carothers 2006; Hirschman 1970; Morse and Keohane 2014; Tallberg and Zurn 2019; Terman 2019
[30] Lake 2009: 13. See also Blau (1963).
[31] Nye 2011: 13

powerful states.[32] In the case of relational hierarchy or American hegemony, it is what distinguishes an authority relationship from an occupation or colonialism.[33]

These theories have generated important insights, but they also tend to underestimate the coercive effects of asymmetric interdependence and inequality, which limit the possibility for open contestation or exit.[34] In fact, when a state has high levels of external dependence, punishment may consist of simply rescinding or reducing access to resources or benefits on which the dependent state relies. This may impose only trivial costs on powerful states while it may be devastating for the dependent state that relies on them. Because of this, substantial power inequalities make it difficult to distinguish between legitimation of authority and relations of domination in which the weaker state acts in anticipation of coercion. As a result, these theories risk mistaking resigned acquiescence for legitimation and everyday resistance for a sign that states view cooperation as beneficial.[35]

I suggest a more nuanced perspective on consent, proposing a set of conditions under which international delegation and cooperation would be considered consensual, volitional expressions of state interests, values, and preferences. I do so by incorporating theorizing on the importance of affirmation[36] and participation[37] in democratic governance, using this theorizing to explore the problem of self-determination in the context of global governance. In doing so, I attempt to illuminate the ways that state weakness, external dependence, and unequal integration into the international system can undermine the conditions for self-determination, including in ways that are less visible and in the absence of overt coercion. These can leave states subject to forms of imposed and unaccountable external authority. Especially for states that struggled for decades for their self-determination, there are good reasons to expect that they will not be indifferent to these limitations on self-rule.

2. Conceptualizing self-determination over international rules

Self-determination is defined as self-rule,[38] or what Robert Dahl calls "governing oneself under laws of one's own choosing."[39] It refers to the government of a state being constitutive of the people, or alternately, the rules of the state representing a free and willful expression of consent to be governed. Self-determination has both domestic and international components. Domestically, it is typically associated with a democratic government in which citizens participate in politics, run for office, and elect political leaders through representative, free, and fair elections.[40] It can also consist of subnational groups or territorial units having high levels of autonomy from a central state authority.

The international side of self-determination extends this logic of self-rule to states, and by extension the people within them, participating in and exercising accountability over *international* rules, and meaningfully choosing to be bound by them. By international rules, I

[32] Hawkins *et al* 2006; Nielson and Tierney 2003; Stone 2008
[33] Blau 1963: 306-307; Ikenberry 1998; Lake 2007, 2009, 2010; Nye 1990; Wendt and Freidheim 1995: 706-707
[34] Farrell and Newman 2019; Gruber 2000; Moe 2005; Pierson 2015; Pouliot 2017
[35] Scott 1985
[36] Stilz 2015
[37] Markell 2008; Scholte 2002
[38] Cassese 1995; Dahl 1989; Stilz 2015; Umozurike 1972
[39] Dahl 1989: 91
[40] Franck 1992

mean prescriptions for behavior, prohibitions against behaviors, and specifications for agreed upon standards that are articulated in international laws, treaties, norms, or policies. These can be embedded in individual international organizations and institutions, decentralized relations between states, and transnational advocacy networks or epistemic communities.

In this section, I first propose and discuss two conditions that establish the degree to which a state can be said to exercise self-determination over international rules: domestic affirmation and meaningful participation. I also discuss the inverse of these conditions which are, respectively, external imposition and usurpation. For both conditions, the more that they are present, the more the people in a state that are bound by international rules can still be said to be governed by laws of their own choosing, because their beliefs and interests are accounted for in international rules, and they are able to meaningfully and collectively choose whether to accept them. At low levels of their realization, the state in question may be powerless to shape or alter rules or the implementation of rules to which they are subject, or to meaningfully consent to them.

2.1. Domestic affirmation

The first condition, domestic affirmation, captures to the degree to which the decision to be bound by an international rule is affirmed through domestic decision-making processes.[41] How much does the decision to be bound by an international rule reflect some aggregation of domestic interests and beliefs, as determined through domestic political institutions and processes,[42] versus responding primarily or even exclusively to external pressures or influences?[43] Are there avenues through which people within a state are able to meaningfully affirm the decision to accept international rules, delegate authority to an international organization, or align policies with another state? This condition draws from the language of Anna Stilz's associative theory of self-determination, though Stilz limits her focus to formal colonization and does not develop her theory to address post-independence forms of global governance.[44] According to this framework, both the decision to delegate authority or align policies and the domestic implementation of rules that are formulated outside of the state should be affirmed by the domestic population.

In practice, this would involve state action at the international level being determined in large part by domestic contestation within and among the state's citizens and government. At the popular level, this could involve expressing opinions and policy preferences and exercising accountability through things like voting for political candidates, protesting, signing petitions, attending public town hall meetings, and participating in interest groups or civil society organizations. These forms of deliberation and contestation do not have to be expressly directed at questions of whether to delegate a particular form of international authority or adopt a specific international policy. They can be ways of expressing broader preferences or values, which can then be translated by the government into decisions about delegating authority.[45]

For the government, this would mean that decisions about whether to cooperate or delegate authority would be arrived at through the weighing of various options that they can meaningfully select from, factoring in public opinion and input, engaging in deliberation and

[41] Stilz 2015
[42] Moravcsik 1997
[43] Jamal 2012
[44] Stilz 2015
[45] Moravcsik 1997

debate with other politicians or opposition parties, as well as internally within their own administration. The decision to delegate, cooperate, or align policies would be based on their expectation of positive outcomes and on how a particular form of international cooperation would reflect or further domestic interests or values.[46] They would result from domestic processes of contestation, and through aggregation of domestic interests by political institutions and processes.[47]

By contrast, rather than the decision to accept international rules being self-determined, in some cases, it may be more accurate to say that rules are externally imposed. This would be the case if the decision to accept an international rule results primarily from external pressures or influences, such as threat or even possibility of external punishment or reward. In fact, external pressures can take the form of overt threats or acts of coercion, but they can also be much more subtle and less visible.[48] States that expect that resistance to international rules will be unsuccessful or result in retaliation by external actors may make the decision to delegate based on the rational expectation of these punitive responses.[49]

An example of this can be seen in Jamaica's engagement with the U.S. and the IMF during the 1970s under the government of Michael Manley. In the latter half of the 1970s, Manley's government began to accept controversial IMF loans, which came along with onerous conditions for reducing social spending.[50] These conditions directly contradicted the government's declared plan for instituting democratic socialism and expanding social welfare programs.[51] The decision to accept the loans was made in the midst of a deepening economic crisis and after years of pressure from the U.S. government, which included holding up new development loans, withholding approval for additional aid or loans, and making the approval of future economic assistance informally contingent on Jamaica accepting IMF loans. During this time, the U.S. Export-Import Bank downgraded Jamaica's credit, and Jamaica was not able to access any private forms of credit.[52]

Accepting and implementing the IMF loans resulted in domestic policies that directly contradicted campaign pledges made by the Jamaican government, pledges which they were elected in 1972 and re-elected in 1976 to implement.[53] The decision to accept these IMF-imposed policies was largely independent of domestic popular interests or political contestation. Rather than being made from within Jamaica's robustly democratic society, the decisions resulted from extensive pressure from the United States in the context of a deepening economic crisis and a lack of alternative options for responding to the crisis. In fact, the policies were deeply unpopular with much of the Jamaican public and, along with the economic crisis, were a major cause of Manley's electoral defeat in 1980.[54]

In this way, state decision-making at the international level can be structured by a state's inequality, dependence, and vulnerability to international pressure. This can limit their range of

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[46] Scholte (2002: 7) notes that immediate decision-making pertaining to global governance rarely involves domestic actors outside of the executive branch, though this does not mean that there are not long-term mechanisms through which other government actors and the individuals within the state affect executive decision-making.
[47] Moravcsik 1997
[48] Korpi 1985
[49] Jamal 2012; Pierson 2015. For an analog, see Moss *et al* 2005 on aid dependency.
[50] Bernal 1984; Brown 1981
[51] Brown 1981; Meeks 2017; "The U.S. Responds: Derailing 'Democratic Socialism'" 1978
[52] Bernal 1984; Brown 1981; Meeks 2017; "The U.S. Responds: Derailing 'Democratic Socialism'" 1978
[53] Bernal 1984: 63; "The U.S. Responds: Derailing 'Democratic Socialism'" 1978: 27
[54] Bernal 1984: 69, 75-78; Libby 1990: 88-89; Stone 1985: 291

realistic policy options, setting up negative consequences for actions that go against the preferences of powerful actors, especially donors or patrons on whom they are dependent for resources or support.[55] Under these conditions, the domestic priorities of the state are overridden by efforts to avoid externally generated negative outcomes or to maximize access to vital resources. The state, in important ways, accepts international rules as a result of coercion or dependence, remains bound to them in ways that are not fully voluntary, and is unable to meaningfully exercise accountability over them.

Another way that international rules can be imposed is if a state becomes subject to the rule without having actively agreed to it. This would be the case if others act as if the state is bound by the rule, including by punishing a state for not complying. Other actors may decide that the state ought to abide by the rule, or that the value of the rule—normatively or to their own interests—outweighs whether a state has agreed to it or not. Other actors could interpret existing rules to apply to new areas without the agreement or involvement of the state that is subject to them.[56] Other actors may then pursue implementation or enforcement of the rule without the state in question's consent or agreement.

An example of this was when Western states imposed a conception of property rights, rules about the protection of foreign assets, and understandings about the transfer of the contractual obligations undertaken by pre-independence colonial governments to post-independence states which prohibited nationalizing foreign-held resources.[57] In the immediate post-colonial period, this led to a number of prominent instances of international intervention and subversion in response to moves to nationalize domestic industries and natural resources. In the present day, these rules continue to be imposed in more subtle ways, through the reliance of states on attracting foreign investment and loans, which may be jeopardized if states engage in nationalization of or levying of taxes on foreign assets.

Of course, societies are not uniform, and states are often home to deep social divisions. Decisions of whether or how to engage with aspects of global governance often involve difficult choices and tradeoffs, and the benefits may be remote, uncertain, and contested by different groups. Additionally, domestic preferences and interests are not independent of international factors or the forces of globalization. All decisions to cooperate or delegate respond at least partially to external factors, and globalization and global governance can create or enhance domestic social divisions and involve complex interactions between domestic and international actors and processes.[58] Nevertheless, in some situations, domestic politics, interests, values, and preferences come to be heavily outweighed by external factors.

The form of external imposition described in this section differs from imposition in the form of "cultural imperialism," where Western values are imposed on non-Western contexts. It is not about the content of the rules being imposed or even about the existence of a historical relationship of colonial or imperial domination, though these dynamics may be layered on top of principled opposition to the undermining of self-determination. Instead, it is about how states come to be bound by a rule, independent of the rule's content or who imposes it.

[55] Getachew 2019; Pouliot 2017

[56] This would be an imposition if the re-interpretation of the rule is done without the state's meaningful participation, as defined in the next section.

[57] Anghie 2005: 209-223; Prashad 2007

[58] Anderson 1999: 6

2.2. Meaningful participation

The second condition, meaningful participation, pertains to whether the state, through its leaders, is able to effectively take part in and influence the design and implementation of international rules to which it is subject, relative to other states.[59] This condition is not met by formal participation or presence, in the form of simply being in attendance during negotiations or discussions over implementation or by possessing formal membership in an international organization in which rules are implemented. Instead, meaningful participation requires the ability to make substantive contributions to the deliberative process through which decisions about implementation are made.[60] This could include successfully introducing agenda items, making effective interventions in debates, triggering or participating in re-contracting with agents, having opinions or positions considered and factored in by others, and exercising some degree of meaningful voice over decision-making over rules, especially when those decisions affect them.

This does not mean that the state is able to exert direct, immediate control over implementation or get exactly what it wants. In fact, one of the reasons that states do things like join international organizations and sign treaties is to enable them to commit to actions or policies that they view as beneficial or important but which they face short-term incentives to defect from.[61] Instead, they should be able to exert a similar amount of influence as other states. This could be the case even if the level of influence over implementation is fairly low for all states, as with an international court. This distinguishes an absence of meaningful participation from a democratic deficit as it is typically defined, where the problem is the existence of long chains of delegation and implementation of rules by unaccountable bureaucrats.[62] Instead, there may or may not be avenues for democratic accountability, but what accountability there is disproportionately responds to a subset of states.

The ability to meaningfully participate is undermined when decision-making regarding a rule to which a state is subject is dominated by other states. This includes decisions regarding implementation, elaboration, enforcement, or extension of the rule into novel activities or issue areas.[63] Existing decision-making procedures may leave a state powerless to shape or alter rules or their implementation, relative to other states. Other states, due to their technical capacity, centrality to networks, or control over resources, may wield such disproportionate influence that other states cannot expect that an attempt at intervening in a debate will have a meaningful effect or that implementation to be more than trivially responsive to their input.

Another reason states may not be able to participate meaningfully in implementing an international rule is that they may simply not be regarded by other states as equal partners worthy of having their opinions factored into decision-making, which becomes especially important when a state lacks material means to assert its preferences. This view that the state is not an equal can affect the willingness of more powerful actors to consider and take seriously the weaker state's positions. It can also influence the design of international institutions, and whether powerful states are willing to create formal rules for equal decision-making. This influenced the U.S.'s differential alliance-formation behavior with European and Asian states after the end of

[59] Markell 2008; Milewicz and Goodin 2018; Scholte 2002; Thaa 2001
[60] Milewicz and Goodin 2018
[61] Buchanan and Keohane 2011; Keohane 1984; Koremenos *et al* 2001; Long and Friedman 2020; Moravcsik 2000
[62] Habermas 1994; Hawkins *et al* 2006; Moravcsik 2001
[63] Krook and True 2012; Van Kersberger and Verbeek 2017

World War II. Hemmer and Katzenstein demonstrate that the United States regarded European states as "relatively equal members of a shared community," whereas they saw Asian states as "an alien…and inferior community."[64]

Under the conditions described above, self-determination is undermined through the usurpation of a state's sovereign authority, which Patchen Markell defines as "depriv[ing]" an agent of "involvement in affairs that affect her."[65] This issue is distinct from whether international authority is exercised benevolently, whether it is entirely capricious and unconstrained, or whether the way it is exercised happens to align with what the people within a state want.[66] What matters is that, from the perspective of the dominated, they are subjected to another's unaccountable whims.

For different rules, a given state's ability to influence implementation of the rule can be greater or more limited. International rules may be implemented within contexts in which the state has little ability to exercise effective influence. This would be the case if important aspects of implementation of a rule occur within international organizations in which the membership composition, voting rules, or informal procedures[67] make it difficult for the state to meaningfully affect debates or introduce agenda items, while allowing other states to dominate decision-making.

By contrast, where an international rule is devolved to the regional level, a state that is weak at the global level but relatively strong within their region may be able to exert more influence over its implementation and decision-making. As I discuss in the next chapter, states can engage in strategic efforts to reposition rules or alter the larger international structure within which rules are embedded, such as through attempts to empower more implementation by the U.N. General Assembly, with its one-country, one-vote decision-making rules, or to argue for the authority or regional organizations or for regional solutions to regional problems.

2.3. State weakness and the unseen limits on self-determination

As I noted above, this discussion is particularly relevant for materially weak and externally dependent states. These are states that are limited in their ability to accomplish important goals and tasks on their own and thus rely to a greater degree on various forms of international cooperation and support. Their dependence on external support creates one-sided reliance on other actors. Rather than a state that is capable of autarky and makes decisions to delegate or cooperate, these states start from a condition of external dependence and reliance on international cooperation. This difference greatly alters the possibilities for self-determination over international rules, making them vulnerable to external pressures that can overwhelm domestic decision-making.

For these states, they are often less able to domestically affirm the decision to be bound by international rules through domestic decision-making processes, with decisions to accept international rules often responding primarily or exclusively to external factors and pressures. They may delegate authority because they expect that openly rejecting, contesting, or exiting a particular authority relationship or set of rules can be costly, lead to retaliation, or simply fail.[68]

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[64] Hemmer and Katzenstein 2002: 575. See also Búzás (2013).
[65] Markell 2008: 12
[66] Barnett 2016; Markell 2008
[67] Stone 2008
[68] Gruber 2000; Moe 2005; Pierson 2015

This dynamic is exacerbated when states are not only much weaker but are also dependent on external support. Actions viewed by powerful donors, trade partners, or allies as uncooperative can damage these relationships and jeopardize continued access to vital resources, support, or markets.

These states may act based on the expectation of immediate forms of punishment or retaliation, or they make decisions based on the need to manage important relationships and long-term access to resources. Given limited budgets for international development and foreign assistance, dependent states have to consider their value to donor states vis-à-vis other aid recipients and act in ways that ensure that donor governments view them favorably when making decisions regarding trade decisions or aid allocation. Weak states may also lack viable exit options in the form of other actors or institutions that can provide similar resources and benefits,[69] leaving them few viable exit options and further reducing their leverage and the likelihood of open contestation.

For these states, reduction or redirection of economic assistance, worsening of trade relations, or the weakening of security guarantees may be prohibitively costly, and because of this, they may accept undesirable rules or forms of authority without a more powerful actor even needing to make explicit threats. In fact, the knowledge on the part of weaker actors that powerful actors are willing to enact these kinds of sanctions in response to actions that they view as undesirable creates a situation where weaker states must act based on the ongoing knowledge of the possibility of sanctions.[70]

As Paul Pierson notes, contestation itself is costly for weak actors, utilizing resources and risking retaliation from powerful actors who are invested in a certain institution or form of cooperation. These power disparities and dependence also decrease the likelihood that contestation will be successful, further lowering the attractiveness to dependent states of risking retaliation. As a result, dependent states may rationally act in anticipation of the costs of rejecting authority, non-compliance, and engaging in open contestation. Pierson notes that relations between powerful and weak actors may be more accurately characterized by power dynamics in which "competing interests are recognized (at least by the powerless) but open contestation does not occur because of power asymmetries."[71] In fact, the larger the power differential between actors, the less likely it is that weaker actors will undertake overt, open resistance to contest the pressures being issued by powerful actors.[72]

Weak states also tend to be less capable of influencing the design and implementation of international rules because they have limited bargaining power, possess less technical expertise, and are often disadvantaged by formal rules and informal practices within international organizations.[73] Formal rules that limit opportunities for meaningful participation include unequal representation and decision-making power. The United Nations, for instance, gives its five permanent Security Council members extensive veto power, while international financial institutions use weighted voting rules that give weak states far less formal influence over decision-making.

[69] Moe 2005
[70] Pierson 2015: 126
[71] See also Scott (1985) on the rarity of outright revolts by the weak against the powerful.
[72] Korpi 1985: 36
[73] Fridell 2011; Ravenhill 1985; Stone 2008

There are also informal mechanisms that limit the ability of states to meaningfully participate. Weak states maintain less influence and face harsher sanctions for violating rules.[74] Bureaucrats within international organizations, concerned with protecting and perpetuating the existence of their organization and protecting their own careers, may make decisions that favor more powerful states because the continued buy-in (or at least lack of open resistance) of these states is necessary for the continued existence of the organization.[75] Additionally, weak states may struggle to maintain adequate representation at the headquarters of international organizations, many of which are located in some of the most expensive cities in the world.[76] Some, like the Eastern Caribbean island states, maintain joint representation at international organizations in order to share the burden of maintaining a diplomatic presence. Others have expressed that they struggle with having their own nationals underrepresented on the staff of international bureaucracies.[77]

States that provide a higher proportion of an organization's budget are also able to use the threat of reducing or eliminating contributions as a means to influence or express disapproval of decisions and policies to ensure implementation reflects their interests and preferences to a greater degree.[78] Resources are required to create new institutional bodies, pay for staff, provide technical support and assistance, and to fund non-governmental organizations. This can grant powerful states a great deal of discretion over what sort of implementation activities will be supported.

One common way that the ability for weaker states to meaningfully participate is undermined is through the ability of more powerful states to "go it alone,"[79] or to take action to implement rules either unilaterally or through cooperating with other middle or great power states. These more powerful states can take action to implement or carry out decision-making with respect to a rule in ways that directly affect the weaker state, but that exclude the weaker state that is affected from decision-making. For example, they could begin to implement an international rule through direct bilateral relations or in international organizations where voting strongly favors the more powerful states. The weaker state would lack the means to directly stop this from happening, and where the weaker state continues to be dependent on either the state or the international organization for resources, they would be sharply limited in their ability to exit the relationship or organization.[80]

In fact, dependence on resources can greatly limit the ability to meaningfully influence decision-making regarding the allocation of those resources, as well as decision-making within the context of the institution or relationship in which resources are allocated. In any relationship or institutional context in which one state receives resources or special benefits from another state, group of states, or institution, the rules created within the relationship are vulnerable to being implemented in ways that give those providing resources greater influence or control. When implementation occurs through direct bilateral relations, the state providing resources has greater discretion in dictating to the state receiving resources how a rule will be interpreted and implemented. In multilateral institutions in which weak member states participate in order to access resources, such as a preferential trade agreement or a development bank, there are severe

[74] Abbott and Snidal 2000; Donno 2010; Hawkins *et al* 2006; Krasner 1976; Stone 2008; Thompson 2006
[75] Barnett and Finnemore 2004; Hawkins *et al* 2006
[76] Personal interview with African diplomat, June 2018.
[77] Personal interview with Central American diplomat, June 2018.
[78] Hawkins *et al* 2006; Nelson 1986
[79] Gruber 2000
[80] Gruber 2000; Moe 2005

structural inequalities between the providers and recipients of resources. These inequalities give the providers of resources greater influence over how decisions are made, even in cases where formal decision-making rules emphasize state equality.[81] This has been the case for aid and preferential trade agreements between the European Union and its members' former African, Caribbean, and Pacific island colonies, for which decision-making is based on formal equality and partnership. In reality, the EU's control of resources results in a great deal of *de facto* control over decision-making.[82]

These limitations on the ability to participate are especially relevant for states in the Global South as compared to small, industrialized European countries. The latter, in addition to being much wealthier in their own right, have domestic economies that are more adaptable to external shocks and fluctuations, are less dependent on other states for their economic survival, and are in a more advantageous position in terms of their membership in international organizations like the European Union and NATO.[83] They are not in the same position of vulnerability to external pressure, and they do not need to act in anticipation of the desires of more powerful states in the same way, meaning that where they experience pressure, it is more likely to be observable as such. Their historical relations make them more equal partners with many powerful states, while their tight alliances and close partnerships with powerful states as part of the EU or NATO mean that they have the support of other powerful states where they do experience pressure from other actors.

3. Self-determination of states? Of authoritarians?

So far, I have discussed how self-determination at the international level is affected by things like treaty-making or participation in international organizations. In response, one might argue that this is an inappropriate use of the term self-determination, which refers to "the people" of a state, not to leaders or governments. However, international rules impact domestic laws and institutions, for example, through the design of domestic economic or political institutions or decisions regarding economic development strategies. Where they do, there are few alternatives for a state's citizens to participate in and affirm these international rules than through their elected representatives. The nature of foreign policy means that these forms of participation and affirmation, in practice, are exercised through decisions made by a state's leaders rather than directly by the people of a state. Where the government of a state is unable to meaningfully participate in the implementation of rules or meaningfully consent to them, it removes avenues for domestic participation in and accountability over the affected domestic laws and institutions.[84]

Because of this, self-determination over international rules is exercised through a state's leaders, who are the individuals authorized to make decisions to delegate or cooperate and who form the point of intersection between domestic and international self-determination. At the international level, leaders translate domestic interests into delegation or cooperation that furthers or reflects these interests, and they participate on an ongoing basis in the design, elaboration, or implementation of international rules. This works most straightforwardly in

[81] Getachew 2018
[82] Crawford 1996: 505; Oyewumi 1991
[83] Katzenstein 1975; Krasner 1985: 7-8
[84] Jamal 2012; Schmitter and Karl 1991: 81-82

democratic states. These provide multiple clear avenues for citizens within a state to exercise accountability over international rules through domestic processes for exercising control and ownership, participating in their government, and imposing accountability on leaders.

However, the question might then be asked whether self-determination is a useful way of thinking about international authority and decision-making in authoritarian states, where citizens do not elect their leaders and in which the ability of citizens to participate in their own government is sharply constrained. In these cases, what leaders want and what the population of a state wants may conflict, or there may simply be no connection to what the people want and what rulers do. However, even in authoritarian states, many leaders still respond to and are at least minimally accountable to their citizens due to the possibility of protest or rebellion,[85] and leaders are still responsive to their domestic population, even when this tends to favor certain groups within the state.[86] Many authoritarian leaders establish institutions and practices that provide imperfect opportunities for participation in government through elections with varying degrees of competitiveness or through institutionalization of participation in local politics.[87] By contrast, geography alone may mean that there are more direct avenues for citizens to influence or exercise accountability over the decision-making of domestic authoritarian leaders than rulemaking by international actors located in Geneva, New York, or Washington D.C.

Participation and domestic affirmation of international rules also matter to citizens in authoritarian settings. In authoritarian states, the nation still may represent a shared "imagined community" for citizens.[88] People may prefer democracy to authoritarianism but still prefer domestic rule over foreign, colonial, or imperial rule.[89] In fact, authoritarian leaders have been able to successfully shore up domestic support and consolidate their own power by leveraging complaints about unfair treatment, imperialism, and external impositions or meddling.[90]

Additionally, as Amaney Jamal develops in the case of Middle Eastern states, democratizing forces within states can be undermined or short-circuited by outside pressures where those pressures do not necessarily support democracy, as with the U.S.'s preference for friendly governments and dislike of Islamist politicians.[91] This is a clear example in which the unaccountability of international actors to the people within the state can undermine international self-determination in both its international and domestic forms.

At the same time, it is possible that, in some cases, ending grossly repressive rule could necessitate external involvement, while interference by external actors that defies the wishes of a state's government may be consistent with domestic self-determination.[92] The latter idea is reflected in the norm of the responsibility to protect, which conceptualizes sovereignty as a responsibility to a state's citizens, wherein international actors can legitimately step in if leaders of a state are not meeting their responsibility.[93] Citizens of a state may also appeal directly to the international community to exert pressure on an unresponsive government from the outside.[94] However, this simply raises the question of under what circumstances and to what degree

[85] Dai and Spires 2018; Lorentzen 2013
[86] Acemoglu and Robinson 2001; Arriola 2012
[87] Levitsky and Way 2002; Nathan 2003
[88] Anderson 1983
[89] Agne 2010: 404
[90] Bush and Prather 2020; Simon and Parody 2022; Terman 2019
[91] Jamal 2012. See also Hamid (2011).
[92] McMahan 1996
[93] Agne 2010; McMahon 1996; Glanville 2010
[94] Keck and Sikkink 1998

individuals within a state would want to have domestic problems dealt with by having their state's sovereign authority usurped or authority imposed by an external actor. It may, in fact, be limited to relatively extreme cases of violent or oppressive governments,[95] and their support may be relatively limited in time and scope. These forms of international involvement are also vulnerable to backlash from citizens.[96] Finally, authoritarian leaders themselves may react negatively to the undermining of their ability to determine their domestic policies and to perceived unfairness in the application of rules. Normatively, this may not matter, but it is likely to have observable effects on their behavior at the international level.

Seriously considering these questions is important. When outside actors decide what is best for the state and its population and impose these policies by exploiting dependence, these rules are arbitrary from the perspective of the people being ruled by them, who lack avenues to affirm or impose accountability on those rules or participate in their implementation.[97] As Wendy Brown cautions, these kinds of international interventions may serve to simply "trade one form of subjection for another," removing one unaccountable ruler, a domestic dictator, only to replace them with another, in the form of an unaccountable foreign government.[98] Similarly, Getachew warns against "normative diminution of collective claims to sovereignty and self-determination, which have historically served to restrain imperialism."[99]

4. Conclusion

State weakness can greatly limit self-determination over international rules. Self-determination, as I conceptualized it in this chapter, is distinct from sovereignty, and it is not realized through sovereign independence alone. In this chapter, I elaborated on the concept of self-determination, extending it to incorporate self-determination over international rules, demonstrating how it aligns with the idea of self-determination as it is commonly conceptualized at the domestic level, and distinguishing it from sovereign independence and authority. Theoretically, this concept distinguishes between external imposition and voluntary delegation, and between formal presence during rulemaking and meaningful participation in deliberations and decision-making. The focus of the remaining chapters is on the ways that self-determination matters empirically, as an important motivator for state engagement with regional organizations.

Self-determination over international rules matters because state actors—leaders, elites, citizens, domestic interest groups—value self-determination and pursue it as a political goal, independent of the content of particular policies or the expected outcomes of cooperation. Because of this, it affects behaviors and manifests in outcomes at the international level. In fact, throughout the decolonization process, and in the aftermath of decolonization, self-determination as conceptualized in this chapter became an important and explicit foreign policy goal for states throughout the Global South. For newly independent states, it served as a continuation of their efforts at achieving self-determination through formal sovereignty.[100] For states that had been independent for some time already, like most of Latin America, it picked up on efforts that they

[95] Getachew 2018; Rafanelli 2021
[96] Bush and Prather 2020; Terman 2019
[97] Barnett 2012; Markell 2008; Stilz 2015
[98] Brown 2004: 455
[99] Getachew 2019: 28
[100] Getachew 2019; Ibhawoh 2018

had already been undertaking for decades to reduce their dependency and mitigate the effects of their weakness, though they had not previously used the term self-determination to describe their efforts.[101]

[101] Lerner 1980

Chapter 3. Trading Sovereignty for Self-Determination

Weak and dependent states are vulnerable to pressures that undermine their self-determination over international rules. As developed in Chapter 2, weak states are more likely than more powerful or self-reliant states to accept international rules in response to external pressure and to lack meaningful input in their implementation. State actors—leaders, elites, domestic interest groups, and citizens—are not indifferent to having their self-governance limited in this way, and engaging in collective action may enable states to push back against these pressures.[1] This possibility was articulated by a prominent diplomat from the small Caribbean island state Antigua and Barbuda with respect to their relations with the United States. The diplomat asserted that "governments of Commonwealth Caribbean countries constantly look over their shoulders to gauge American reaction before taking actions. And, they have developed a strategy of adopting policies collectively if they believe that such policies would cause offence to the US."[2]

At the same time, weakness and dependence on external support leave states vulnerable to punishment or retaliation for objecting to rules that more powerful actors favor or for being seen as insufficiently cooperative. When responding to challenges to their self-determination, or perceived threats to their self-determination, weaker states must factor in the possibility of retaliation, the costs of open contestation, and the need to manage important relationships with donors or important allies. For these reasons, they are far less likely to respond to challenges to their self-determination, even collectively, with overt resistance, contestation, or exit.

Instead, though they use collective action to resist outside pressures, they may attempt to do so in ways that are less visible as resistance. One such way of subtly resisting the imposition of a rule or unwanted forms of implementation is to take over the rule by moving it into a regional organization, where the decision-making rules, membership composition, and norms increase their influence and create fairer and more equal conditions for implementation. In this way, states can trade sovereignty, in the sense of national autonomy and exclusive authority, for self-determination, in the sense of the ability to participate in decision-making that affects them. By creating regional mechanisms, they can persuade other actors to defer to regional authority, to incorporate the opinions and judgment of regional mechanisms, to accept implementation by regional organizations as an alternative to their own implementation, or to channel their own efforts into supporting regional implementation.

I argue that this was an important goal of states in the Global South for creating, accepting, and expanding regional human rights mechanisms. This strategy consists of two parts. First, states must create, accept, or expand mechanisms within their regional organization for implementing human rights, including by actually cooperating with the regional mechanism. States do not have complete discretion over the design of regional mechanisms. In order to convince other actors from outside of the region to accept regional mechanisms as a legitimate authority over human rights, the mechanism must meet minimal expectations of legitimacy and effectiveness. Second, states must assert the legitimate authority of the regional organization over human rights. This consists of persuading other actors that care about human rights and its implementation—or that are being pressured to act—that they should defer to or accept the input and leadership of the regional organization.

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[1] Krasner 1985: 4
[2] Sanders 2007

As I develop in subsequent chapters, human rights and the implementation of human rights changed dramatically in the 1970s, with powerful, Western states moving for the first time to widely enforce human rights through economic pressure. This included institutionalizing these pressures in their economic relations with the Global South. I develop this theory with respect to human rights, which I conceptualize as a set of international rules within a particular issue area. However, I argue that this theory can help explain the expansion of regional mechanisms in other issue areas.

States in regions that were subject to these forms of enforcement, including states that otherwise supported human rights, objected to the use of these economic measures as inappropriate and one-sided. However, these states were left with few tools to limit or prevent these actions—which was, in fact, the point of these measures. As a result, states in regions experiencing this pressure moved to take over human rights and human rights enforcement by creating, accepting, and expanding their regional human rights mechanisms. They did so in ways that compromised on strict norms of non-interference in order to meet external expectations of legitimate and effective enforcement.

This strategy took on a specifically regional character because of both push and pull factors that encouraged states to take over human rights within their regional organizations as opposed to attempting to move them into other institutional settings, like decision-making bodies of the U.N., where they outnumbered more powerful states. They were pulled towards a regional strategy because regional organizations were an effective, useful, and available institutional framework for this strategy. They are pushed towards the use of regional organizations by forms of pressure that they experience, which tends to vary by region. Additionally, the fact that these pressures varied across regions meant that what was otherwise a tight coalition of Global South states within the U.N. was divided in whether or not they had incentives to compromise on non-interference. This meant that empowering the U.N. was not a viable approach.

I end by elaborating a set of observable implications that distinguish my argument from other existing explanations for the delegation of human rights enforcement authority to their regional organizations. I will use these observable implications in subsequent chapters to assess my argument that states compromised on the norm of non-interference as a way of maintaining self-determination. I discuss how these observable implications fit together, contrast with, or fill in gaps left by existing explanations, and why, if supported with empirical evidence, they would suggest that increasing or maintaining self-determination was an important motivator for expanding the authority of regional organizations to enforce human rights. Most notably, I expect that this strategy will bring together states that are actively promoting human rights with states that are actively being targeted for violating them, who are united by their opposition to forms of implementation that undermine their self-determination.

1. Trading sovereignty for self-determination over human rights

In this section, I develop the argument that states may trade sovereignty for self-determination as a way of taking over human rights and moving it into contexts in which they can anticipate fairer and more equal enforcement, and where they can exert more equal influence relative to other states. I outline what it means for weak states to become subject to an international rule like human rights in a way that challenges their self-determination and how the strategy of trading sovereignty for self-determination can mitigate these challenges.

1.1. Encountering challenges to self-determination

As developed in Chapter 2, low material power and reliance upon external support make states vulnerable to challenges to their self-determination, while also limiting their available ways of responding to these challenges. Specifically, it can limit states' ability to domestically affirm international rules to which they are subject and to meaningfully participate in their implementation. In fact, states with these characteristics are more likely to accept international rules in ways that respond primarily to external pressures rather than domestic decision-making processes. Having accepted rules, they are more likely than stronger or more self-reliant states to be limited in their ability to participate in or exercise accountability over their implementation relative to other states.

These kinds of challenges to self-determination can take a variety of forms. Outside actors can use coercion or the threat of coercion to pressure a state to ratify a human rights treaty, consent to an international investigation, or alter or establish new domestic laws or institutions. They can also do this without explicit threats or coercion, by simply making it known that continued positive relations or access to resources may rely on formally accepting and demonstrating compliance with human rights.

Outside actors, and in particular powerful states and international organizations in which powerful states wield disproportionate control, may also take action to implement human rights in a state without that state having formally ratified a treaty accepting human rights or accepted the specific form of implementation in question. They can do so by implementing human rights using existing mechanisms within an international organization without human rights formally being a part of the organization's mandate and without the state on the receiving end having agreed to these changes. An important example of this was the addition of human rights considerations in voting on World Bank loans, which conflicted with the World Bank's mandate prohibiting interference in political affairs.[3]

In other cases, where a state has accepted human rights, other actors may elaborate on or introduce novel interpretations of rights that the state has not agreed to or participated in and, following this, implement it according to this new interpretation.[4] One such development was the shift towards asserting that membership in the U.N., whose official purposes include "promoting and encouraging respect for human rights," implied that a state has accepted human rights and its implementation even in the absence of ratification of human rights treaties.[5] Another is the interpretation of human rights treaties as requiring abolition of the death penalty, in spite of the fact that the death penalty is officially permitted by the International Convention of Civil and Political Rights. This was done by defining the death penalty as cruel and unusual punishment.

Additionally, where states are subject to human rights, they may lack the ability to meaningfully participate in decision-making over how they are enforced or implemented, both in general and as specifically directed at them. This could be the case whether or not the decision to ratify a treaty or add human rights language to the mandate of an international organizations was itself the result of external pressures. For example, the state may be boxed out of decision-making through disadvantageous voting rules or through informal processes that allow other states to dictate the terms of implementation.[6]

[3] Kedar 2018
[4] Van Kersberger and Verbeek 2017
[5] Lorenzini *et al* 2022: 122
[6] Stone 2008

Challenges to self-determination can take many forms, but it is the ability to impose real, damaging costs that have the greatest effect. Things like shaming or condemnation are undesirable, and states may object to them on principle and view them as inappropriate. However, weak or dependent states will be able to withstand these kinds of pressures if they are not coupled with other, costlier forms of implementation like sanctions or trade boycotts, reduction of economic assistance, or weakening of security guarantees, which can be devastating to these states.

Where outside actors shift towards these forms of pressure, the state that is subject to this implementation is effectively presented with a new status quo, in which the question is no longer *whether* human rights will be enforced, but *who* will enforce them and *how*.[7] Where appeals to norms of sovereign authority or non-interference may have been effective at preventing or mitigating these pressures in the past (even if not fully eliminating them), states may find that this is no longer the case. This change radically alters the decision-making calculations of weaker states. It greatly increases the expected likelihood of being affected by human rights and by costly forms of enforcement, and it decreases the expected likelihood that rejecting the rule through recourse to sovereignty norms will be effective. This expectation alone can elicit preemptive action from states, leading them to attempt to rationally anticipate what kinds of actions are likely to be punished and what actions might mitigate this possible punishment. As discussed in Chapter 2, as power disparities increase, open contestation and resistance should decrease and be replaced with attempts to avoid undesirable clashes with more powerful actors in the first place.[8]

The effects of this kind of implementation may be the most direct and acute for states that are actively targeted with these pressures, but the effects are not limited to these states. Rather, the anticipation of these tactics has a range of effects on other states. States that are weak or dependent may rationally anticipate being targeted, especially if they are engaging in behaviors that make them vulnerable to charges of abusing human rights. However, even states that are not actively violating human rights may still be made subject to these policies through their broad application or institutionalization. For states that otherwise support human rights, this may represent a threat if they anticipate and are worried about the long-term or unforeseeable effects of the general erosion of sovereignty norms, or the expanded use of type of these forms of implementation, which may include forms of pressure to which they are especially vulnerable or which they consider inappropriate. They may also object to them out of principle, viewing the one-sided and unaccountable policing of their behavior by other states as inappropriate.

The expectations of individual states will be affected by the patterns of pressure and implementation that they observe and whether it seems likely, based on those patterns, that they will be affected by the change. They are also affected by the stated policies of actors that are using pressure to implement human rights. As I discuss below and in Chapter 5, these expectations are frequently regional in nature and can lead states within a region to have greater or lesser expectations that they will be affected by costly forms of enforcement.

In response, states may take action in anticipation of punishment but without an explicit, direct threat being made or active coercive measures being taken towards them. The potential costs of sanctions to these states may be so high that the possibility of punitive measures alone can lead them to take action to try to avoid them. This can give the appearance of a state taking an action on its own initiative or being persuaded or socialized to accept human rights. It may

[7] For a similar argument about powerful states imposing a new status quo on weak states, see Gruber (2000).
[8] Korpi 1985; Pierson 2015

appear on the surface like the weaker state has accepted human rights because it has been persuaded of their legitimacy or value, or because it wants to be more like powerful states that are pushing for human rights—in other words, that it is being attracted to these actions through the application of soft power, that it accepts forms authority as legitimate, or that it has been socialized to accept human rights.[9]

However, the fact that a state does what others want without these other actors having to take direct, observable coercive measures does not mean that the state making these changes views them as legitimate or desirable, or that the state has been persuaded in any meaningful way. Instead, the state may be acting rationally with an understanding of its weakness and the range of constraints on its actions. Once a state sees the imposition of a rule as likely or unavoidable, they are more likely to act in anticipation of this happening.

This is not to say that weaker states have no agency or that they will always do what other, more powerful actors want. Instead, what this means is that the presence of substantial inequalities and relations of asymmetric interdependence greatly increase the likelihood that weak or dependent states will hold back from doing things that may potentially damage important relationships or elicit discipline. It increases the chance that they will view acceding to the other actors' preferences in some way as their best or only option, regardless of their own views and preferences. In other words, engaging in open contestation or resistance in response to a particular rule or certain forms of implementation may simply not be an effective strategy.

In the case of a rule like human rights, which has such strong moral valence and appeal, it can be difficult for states to contest certain aspects of the rule or forms of implementation without the appearance that they are doing so in order to hide their own bad behaviors. This difficulty can be seen in the assertion by the director of a prominent NGO, who in 1980 criticized developing states for their claims that adding human rights conditions to a preferential trade agreement represented inappropriate interference in their internal affairs. The director wrote that this was "an argument now regarded as the last resort of scoundrels."[10]

For these reasons, rather than openly protesting human rights enforcement, they may instead use less overt means of contestation or resistance, such as engaging in reluctant compliance, or telling more powerful actors what they want to hear.[11] For example, from the colonial period through their modern relations with the U.S., leaders in Latin America have pursued a strategy of "obedezco pero no cumplo," or, "I obey but I do not comply," in which they humor more powerful actors by formally accepting their dictates and then simply not implementing them, which American leaders interpreted as incompetence rather than resistance.[12] Taking over human rights by delegating authority to a regional organization in order to counter the imposition of other, unwanted authority is one such form of subtle resistance. By doing this, weaker states may actually *increase* their discretion over human rights relative to alternative forms of international authority, even where they delegate real, substantial authority to their regional organization. They may even alter which strategies other actors view as optimal or appropriate for pursuing implementation.

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[9] Goodman and Jinks 2004; Ikenberry 1998; Ikenberry and Kupchan 1990; Kelley 2004, 2008; Lake 2007, 2009, 2010; Nye 1990, 2004; Risse *et al* 1999, 2013; Stone 2008

[10] Young-Anawaty 1980: 96

[11] Bayart 2000; Scott 1985, 1990; Tieku 2013

[12] Schoultz 1998: 384-385

1.2. Using regional organizations to take over human rights

Faced with the circumstances described in the above section, where human rights policies and their implementation are presented as the new status quo, a state's best strategy may be to attempt to maintain some influence or discretion over human rights as they are applied to the state. This can include maintaining influence over who will implement human rights, what that implementation will look like, and how human rights will be interpreted and elaborated on in the future. To do this, weak states can attempt to take over human rights and their implementation within their own regional organization, moving human rights into a regional organization where existing rules, norms, or membership composition create fairer and more equal conditions for decision-making. In this way, states can trade sovereignty, in the sense of national autonomy and exclusive authority, for self-determination, in the sense of the ability to influence and participate in their own governance.

What does it mean to "move a rule" into a regional organization? International rules consist of individual prescriptions for behavior, prohibitions against behaviors, and specifications for agreed upon standards. These rules are articulated in international laws, treaties, norms, or policies which are themselves embedded in individual international organizations and institutions, decentralized relations between states, and transnational advocacy networks or epistemic communities. For most international rules, rather than existing in a single treaty or institution, they are nested in extensive regime complexes which are made up of institutions and informal or decentralized relations.[13]

This regime complex creates an overall structure within which the rule is shaped, implemented, elaborated on, and contested. This structure is not static, and states can contest the appropriate role for different actors in implementing rules and the appropriate site for rule implementation.[14] Powerful states can "take over a rule" by implementing it within contexts in which they wield disproportionate control, like their bilateral relations or into international organizations in which they have greater voting power. In response, states may engage in strategic efforts to reposition the rule or alter the structure within which it is embedded by arguing for a more prominent or authoritative role for institutional bodies like the U.N. General Assembly, with its universal membership and one-state, one-vote decision-making.

States can also reposition or "take over" rules within an issue area by moving them into a regional organization. The strategy of taking over human rights by moving them into a regional organization consists of two steps. States within a regional organization must first create a regional mechanism that can implement human rights. They must then persuade other actors to accept the regional organization as a legitimate authority over human rights. In other words, authority must be established both internally, with respect to the actors over which authority is to be exercised, and externally, with respect to other actors that have overlapping or competing claims to authority.

The internal element of establishing authority involves establishing with respect to those subject to the organization's authority that it has the right to issue commands, to have those commands complied with, and to punish non-compliance.[15] Externally, it involves persuading actors outside of the region to "defer to the authority's judgment"[16] and to grant the organization

[13] Alter and Meunier 2009; Raustiala and Victor 2004; Green 2022; Muzaka 2011
[14] Green 2022; Hafner-Burton 2009; Pratt 2021
[15] Lake 2007, 2009
[16] Barnett and Finnemore 2004: 20

"a right to speak and to have those statements conferred credibility."[17] In the case of establishing the regional organization as an authority, other interested actors, including those that also have a claim to legitimate authority over the region, must be persuaded to accept that the regional organization has right to speak and be listened to in cases where their authority overlaps.

If effective, this strategy increases weak states' self-determination over human rights in three ways. First, it can decrease the imposition of human rights by extra-regional actors by persuading these outside actors to accept and defer to the authority of the regional organization. This can include limiting the involvement of extra-regional actors to supporting, cooperating with, or following the lead of the regional organization. Second, by establishing the regional organization as a legitimate authority over human rights as they affect the region, states can create normative expectations that the regional organization ought to be consulted and that its opinions ought to be listened to and respected when it comes to policymaking that affects the region. States thus increase their influence over policy at the global level via their collective voice within the regional organization. Finally, states can take over the creation and implementation of human rights, even deterring extra-regional involvement altogether, by shifting policymaking out of the global level and into the regional organization where the pre-existing decision-making rules, membership composition, and power disparities increase the likelihood that states will be able to influence how human rights policy is designed, implemented, and elaborated on.

1.2.1. Creating a regional mechanism

In employing this strategy, states must first create a regional mechanism for implementing human rights by creating, accepting, and expanding the mandate of their regional organization to engage with the rule. In some cases, human rights may already be a part of the regional organization's mandate while, in others, they may be outside of the regional organization's existing competence. Where there is no existing mandate, members of the regional organization must delegate new authority to the organization in order to be able to then assert the organization's authority. Even where the regional organization has existing competence, states may need to expand the organization's authority and increase their cooperation within it in order to meet other actors' expectations of legitimate authority.

In either case, one of the central goals of taking over implementation of an international rule is persuading other actors with an interest in or competing claims to authority over implementing human rights to accept the regional organization as a legitimate alternative for implementation. Because of this, states must design regional mechanisms to meet minimal expectations held by outside actors regarding what constitutes appropriate and effective implementation, and they must actually accept the regional organization's authority and cooperate with it. The regional organization's authority will be undermined if outside actors do not believe that the regional mechanism has been designed in a way that will allow it to effectively engage with or address human rights, as well as if member states are not willing to actually accept the authority of the regional mechanism. This does not mean that actors within the region were not also involved in developing these expectations or that these expectations cannot themselves be changed. However, they form a baseline for how outside actors will conceive of what a legitimate authority looks like.

[17] *Ibid*

External expectations pertain to both the content of the rules being implemented and the form that implementation takes. In terms of content, the rules that are being implemented by the regional organization need to reflect external expectations of the content of rules within the given issue area. This may work alongside or sit in tension with norm localization, in which states within a region adapt and alter global norms to make them cohere better with local or regional norms.[18]

With respect to the issue of human rights, the Universal Bill of Rights, which consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant of Economic, Social and Cultural Rights, form the basic expectations for what the content of legitimate regional mechanisms ought to include. However, as I develop in Chapter 4, Western governments and international NGOs were especially focused on physical integrity rights early on, and they valued a conception of human rights that emphasized state governments' responsibilities towards people within their own borders.[19] This meant that physical integrity rights, in particular, and a domestic conception of human rights, in general, needed to be adequately reflected in the content of regional mechanisms.

With respect to the form that implementation takes, this relates to both the design of the institutional bodies within regional organizations that carry out implementation and the form of implementation that these bodies are empowered to carry out. There are a number of questions that apply to the issue of design. Do implementing bodies need to be independent or can they be comprised of state representatives? Should their members consist of individuals with particular kinds of expertise? Are there specific decision-making rules they should abide by? Regarding the forms of implementation that regional organization should be empowered to take, are there certain activities that they are viewed as particularly central or important?

For human rights, effective and appropriate action required, first and foremost, compromising on the norm of non-interference. Central to this expectation was the idea that human rights implementation should take the form of enforcement, or adversarial action against states or state agents that are violating human rights or are suspected of violations.[20] By the time that states were moving to take over human rights in the late 1970s and early 1980s, human rights enforcement had developed to include things like commenting on, criticizing, or making recommendations regarding an individual state's human rights practices. It also includes investigatory actions that are adversarial in nature (for example, investigations of allegations of human rights abuses) or requiring states to themselves produce potentially damaging information regarding their own failure to comply with human rights. Finally, it included things like economic sanctions or, at the most extreme, humanitarian intervention. These actions all violate traditional conceptions of sovereignty and contrast with other possible forms of implementation that focus on promotion, education, capacity building, cooperation, or standard setting. These activities tend to be viewed as supplementary to the more important interventionist forms of enforcement.

In addition to this expectation that enforcement should involve compromising on non-interference, a number of more specific expectations developed regarding the precise form that

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[18] Acharya 2004, 2009

[19] This is in contrast to a conception of human rights that privileged what I refer to as "international duties," or the duties of governments towards people outside of their borders. I discuss this in Chapter 4.

[20] This is adapted from Darren Hawkins's defines delegating enforcement as "a formal agreement among states that delegates authority to third parties to take adversarial, compulsory action against states or state agents that are violating international rules, or are suspected of such violations" (Hawkins 2004: 781).

this should take. First, there was an expectation that enforcement of human rights should be international. In early years of the development of human rights, there were proposals that international human rights law would exist to set standards for states, but that implementation would ultimately be carried out at the national level, by states themselves.[21] Some states also advanced the idea that national human rights institutions would be the primary means of implementation of human rights.[22] However, by the early 1970s, all existing international human rights systems had international bodies which were the focal points for implementation.

A second expectation that arose was that international enforcement should be carried out by independent bodies within international organizations made up of experts serving in their individual capacity, rather than by an inter-governmental body. A degree of independence from states increased the chances that these mechanisms might actually challenge state practice, rather than being subsumed to diplomatic or political concerns. The original implementation body of the U.N., the UNCHR, was in fact an inter-governmental body, on which an elected subset of states would have representatives. However, one of the first tasks of the commission was to draft the legally binding human rights conventions which would be implemented by an international body. The outcome of this process was the creation of the U.N. Human Rights Committee, an independent body of 18 human rights experts that serve in their individual capacity.

Finally, the expectation emerged that effective and appropriate enforcement involved the ability for the implementation body to receive information from private individuals within states, who should be able to make complaints of human rights violations. In fact, in 1947, the UNCHR had initially issued what has been referred to as a "self-denying" rule, declaring that it did not have the capacity to do anything in response to the many complaints of human rights violations that had started to flood the organization. However, states amended the commission's mandate in 1967, creating procedures for them to act on these complaints. Around the same time, in 1966, states adopted the ICCPR along with an optional protocol that provided for the treaty body, the Human Rights Committee, to receive and issue non-binding decisions on individual complaints against state parties.

This way of thinking about institutional design follows the logic of institutional diffusion or isometric convergence, although it places emphasis on the way that self-conscious attempts by states within the region to meet external expectations contribute to the diffusion process. This is opposed to convergence resulting from member states' own shifting beliefs and expectations about what design is appropriate or obvious.[23] These expectations may also be shared by some actors that are internal to the organization such as member states and staff of the regional organization's bureaucracies, who can play an important role in advocating for them from within.

The existence of these external expectations and the desire to relieve pressure from actors from outside of the region creates a situation where states become willing to delegate far more authority than they would have otherwise to their regional organizations. They also become willing to cooperate with these regional mechanisms, even where they present a challenge to their regime, and open themselves up for scrutiny. Similarly, the degree to which states in a region will be willing to design regional mechanisms with genuinely challenging authority may depend on outside actors being able and willing to impose costs on them. Where external actors

[21] See for example: Inter-American Juridicial Committee 1946
[22] Kim 2013; U.N. General Assembly 1978a
[23] McNamara 2002; Meyer and Rowan 1977; Börzel and Van Hüllen 2015

are only superficially interested in human rights being enforced, they may be placated by regional mechanisms that do not go as far towards meeting external expectations.

Of course, not every regional mechanism is created or expanded with the intention of convincing outside actors of its legitimacy. In some cases, regional mechanisms may more explicitly reject outside norms and ideas.[24] However, if the goal is to convince outside actors to accept their regional mechanisms' legitimate authority, then the discretion of actors within the region to localize norms is limited by these outside expectations. In fact, if states are attempting to take over an issue area, regional mechanisms may consist of a mixture of ideas that are specific to the region alongside ideas that are imported from global conceptions of norms and, in some cases, do not fully cohere with pre-existing regional norms.

1.2.2. Asserting the authority of regional mechanisms

Having created a regional mechanism, states must then assert the regional organization's authority to other interested actors outside of the regional organization. The authority of regional organizations over the region, their competence with respect to particular issue areas, and the nature of their relationship with existing authorities—whether they are super- or subordinate or complementary to them—are all likely to be contested.[25] The authority of the region in general and a given regional organization in particular often has to be asserted, particularly where it is being expanded into a new domain. This includes persuading other actors that regions and individual regional organizations ought to be consulted with and listened to when it comes to issues within the regional organization's substantive and geographical domain. Additionally, since the end of World War II, there have been many debates regarding the dangers and efficacy of regionalism versus globalism or universalism.[26]

This was the case with human rights, the regionalization of which remained contested at the time that states in the Global South attempted to employ this strategy.[27] The idea that human rights would be well-served by enforcement within regional organizations was not at all taken-for-granted. There were concerns with regional implementation of an issue area for which, more so than other issues, universality was a defining feature. Discussing the possibility of encouraging the use of regional human rights commissions in the late 1960s, a number of representatives voiced concern that human rights were a "universal problem"[28] and that "United Nations activities alone could ensure a uniform application of accepted norms."[29]

Discussions of regional commissions in the late 1960s proposed that these would be housed within the U.N., along the same lines as regional economic commissions.[30] Even then, a number of state representatives suggested that regional commissions offered "no tangible advantages" and that "the existing United Nations machinery, albeit capable of improvement, seemed adequate."[31] This was a piece with the broader ambivalence towards regionalism which had been present since the U.N.'s founding, fed by the worry that world peace would be

[24] Acharya 2011b
[25] Bebr 1955; Hettne and Söderbaum 2006
[26] Barnett 1995a; Bebr 1955; Hettne and Söderbaum 2006; MacDonald 1965: 4-11, 19; Yalem 1962: 461-461
[27] Vasak 1982: 451
[28] U.N. Commission on Human Rights 1968a: Para. 26
[29] *Ibid*: Para. 29
[30] *Ibid*: Para. 30
[31] *Ibid*: Para. 28

compromised by the creation of regional blocs.[32] As late as 1979, the special assistant to the Director of the U.N. Division of Human Rights wrote that regional commissions should "serve as adjuncts to the United Nations…subjecting them in considerable measure to the direction and control of the central organization." He suggested that regionalism should be accepted "conditionally."[33]

States that are attempting to take over the implementation of human rights may argue that regional organizations are uniquely effective, legitimate, and knowledgeable with respect to the region, and that these features make the regional organization well-suited to dealing with human rights within the region, even if it has no past experience with the issue itself. Political actors within the region may emphasize the legitimacy and effectiveness of regional solutions to regional problems, arguing that regional actors are better able to speak for and understand the region. They may also assert that actors from outside of the region need the buy-in, consent, approval, or participation of regional organizations for their own actions to be legitimate.[34] By expanding the regional organization into new issue domains, states establish a regional organization as an alternative to existing authorities.

There are, in fact, many examples of states attempting to assert the authority of their regional organizations over an issue. During the drafting of the U.N. Charter, Latin American and Arab states argued that the charter should recognize regional "arrangements" and give them priority over dispute settlement within their regions. This was the impetus for Chapter VIII of the U.N. Charter, according to which, states "shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council," while the Security Council "shall encourage the development of pacific settlement of local disputes through" regional organizations.[35] Latin American states also used this strategy to argue for the primacy and autonomy of regional agencies in the World Health Organization,[36] while both Latin American and Arab states were among the strongest voices for regional preferential trade during the drafting of the General Agreement on Tariffs and Trade.[37] The norm of regional solutions to regional problems is an important manifestation of this strategy and has often been used to bolster non-interference, most notably to prevent extra-regional military intervention in Africa following decolonization through the directive to "try O.A.U. [Organization of African Unity] first."[38]

2. Why regional solutions?

Why would states respond to these pressures by delegating to regional organizations, in particular? Delegating authority to a regional organization is not the only way that states can use international institutions or collective action to maintain self-determination over international rules, and states may use multiple strategies simultaneously. Other strategies include developing global norms or establishing rules within global international organizations that emphasize state

[32] Barnett 1995a; MacDonald 1965: 4-11, 19; Yalem 1962: 461-461
[33] Ramcharan 1979, Quoted in Rubner 2011: 271
[34] Bellamy and Williams 2011
[35] Boilard 2019: 141-142; MacDonald 1965: 9-11; Yalem 1962: 461-462
[36] Hanrieder 2016
[37] Chase 2006: 23, 25
[38] Mathews 1977

equality and equal participation or that prohibit pressure or interference.[39] There was nothing inevitable or natural about regional organizations that led states to adopt the strategy of trading sovereignty for self-determination within their regional organizations. Similarly, this strategy is not necessarily about establishing regional *autonomy*, or exclusion of extra-regional actors from engaging in the region.[40] States may accept and even welcome involvement from outside actors, but with the regional organization itself serving as an accepted, legitimate source of authority, and even as a gatekeeper for extra-regional activity.[41]

Instead, there were a number of both push and pull factors that led states to adopt a regional approach. States were pushed towards this strategy by forms of pressure which varied according to region. For powerful states, who tend to be important actors in implementing and policing compliance with rules, their regional strategies involve balancing different priorities and interests. This uneven pressure not only encouraged regional responses, but it also limited the use of global strategies, including expanding the mechanisms of the U.N. Joint, cross-regional initiatives were limited to approaches to which a substantial majority of a large and diverse group of states could agree. Because challenges to self-determination affected only some regions, states were divided in their willingness to compromise on the norm of non-interference. Additionally, weak states were pulled towards a regional strategy because regional organizations were an especially effective, useful, and available institutional framework for both taking over human rights and pushing to exclude Western states from involvement.

2.1. The push of regional pressure

The strategy of creating and asserting the authority of regional mechanisms is, in part, a response the form that external pressure takes. For both structural and strategic reasons, outside actors tend towards organizing their strategies by region. This means that the pressures that regions are responding to tend to be specific to and vary by regions. This pertains to both the existence of pressures and the form or intensity of pressures.

An important reason that pressure varies by region is that the actors implementing policies tend to have existing institutions and bureaucracies that are organized by region. For many states, their foreign policy bureaucracies are organized geographically by region, in addition to issue-oriented forms of organization, though historically, departments organized by geography have historically been more dominant and prestigious.[42] Similarly, many international organizations and international human rights NGOs organize their work according to region, with things like regional branches and regional directors. This does not necessarily mean that they apply the same policies or approaches towards all states within a region, but that regions are viewed as a system, with decisions towards one state in a region having implications for policies towards other states in the region.

Issues themselves may take on, or may be seen as taking on, a regional character. Civil conflicts create refugee problems that spill over to the region as a whole, while inter-state conflicts can expand to embroil the larger region. Addressing conflicts becomes a regional rather than state-specific matter, with successfully resolving the conflict seen as resting in large part on the buy-in or management of nearby states. Similarly, maintaining access to natural resources

[39] Finnemore 2003; Finnemore and Jurkovick 2014; Getachew 2019; Krasner 1985
[40] Acharya 2011b
[41] Bellamy and Williams 2011
[42] Berridge 2022: 7

may take on a regional character when the natural resource is disbursed throughout a region. Issues can be also actively framed as regional.

With a normative issue like human rights, the extent to which powerful states, in particular, pursue human rights in their foreign policies and the forms of enforcement that they use are likely to be affected by countervailing strategic and economic priorities. States are likely to pursue human rights where it is relatively cheap—meaning there were few tradeoffs or chances of it damaging other important priorities—and easy—where the availability of pre-existing relationships and institutions into which human rights could be introduced. Even governments that have the most genuine interest in human rights nevertheless have other foreign policy goals and domestic interests that compete for prominence and attention. There is also a limit to how much their constituents or elites will support promotion of an issue if it comes at the expense of other economic or geopolitical concerns. In most cases, leaders will take more forceful stances on an issue and engage in costly forms of enforcement where there is a high likelihood of success, because success will bolster domestic support for the issue and demonstrate competence, while failure has the opposite effect.

As I show in Chapters 5 and 8, this was the case even for Jimmy Carter's administration, which is widely regarded as having a genuine commitment to human rights. A memo from Carter's director of policy planning in the State Department noted that in the U.S.'s foreign policy with the Middle East, "we have not put primary emphasis on human rights considerations, in view of our other pressing interests, when deciding on arms sales or determining our approach to the area generally."[43]

This structures the strategic decision-making of actors when it comes to enacting policies to implement a particular rule. There is also an element of path dependence, as the more that expertise and knowledge within existing institutions develops by region, the more they will continue to be drawn towards strategies and forms of knowledge that divide the world into regions. This is compounded by the fact that states in these regions themselves encourage regional approaches by presenting themselves as a regional bloc, which they do as a strategy of increasing their collective voice and bargaining power.

When it comes to implementing human rights by actors outside of regions, although decision-making can occur on a state-by-state basis, implementation is likely to follow a logic of regional discrimination in the ways and the degree to which a particular state pursues a given issue in their foreign policy. This may not be the intended goal of states engaging in it—it may simply follow from the opportunities, demands, and constraints with which they are presented. In response, the problem of external imposition of international rules may present itself similarly to states within an individual region and result in regions confronting the problem using regional approaches.

2.2. The pull of regional organizations

There are a number of reasons why states would have been pulled towards delegating to their regional organizations as a way of taking over human rights. Delegating to regional organizations results in part from path dependence and in part from the fact that a regional strategy effectively responds to the wide range of interests and preferences of the different actors with a stake in enforcing human rights, both within and outside of the region.

[43] *FRUS* 2013, Document 105

2.2.1. Regional implementation and path dependence

The use of regional strategies is often the result of path dependence, as states tend to have more regular and intense interactions and a shared history of cooperation with other states in their region. Regional action draws from established patterns of cooperation and solidarity which encourage the use of regional groupings. In the case of the Global South, these date back to their liberation struggles and post-independence efforts at maintaining independence. This creates a level of identification with the region, establishes normative frameworks and institutional structures that can make the use of regional strategies appear more attractive or efficacious, and also leads states to see their own domestic politics as linked with those of other states in the region.[44]

States also invest resources in developing their regional organizations, and one major purpose of these regional organizations has been to limit interference from outside of the region.[45] Adopting this new strategy was a natural extension of these previous efforts. In this way, the norm of regional solutions to regional problems is, in part, strategically constructed and reproduced by states that are united by shared external pressures,[46] shared beliefs regarding which strategies will be successful at responding to these pressures,[47] shared expectations that what happens to one state in the region may also happen to others, and a history of regional cooperation and solidarity.[48]

Another important piece of path dependence is the norm of regional solutions to regional problems itself, which holds that regions ought to be given space to manage their own affairs, both for reasons of legitimacy and because of the expectation that regions understand their own problems better and can devise more effective solutions. This is in spite of the fact that, as Paul Diehl notes, there are as many reasons that regions are poorly suited for managing their own internal problems as there are reasons that they are uniquely effective.[49] Emphasizing regional action both draws from and actively constructs and strengthens the norm of regional solutions to regional problems.

As noted above, Chapter VIII of the U.N. Charter, which called for the primacy of regional organizations in solving regional disputes, was added through the efforts of Latin American and Arab states to carve out space for their own nascent regional organizations and to try to limit interference in their regions from outside actors. The fact that the importance and primacy of regional organizations is institutionalized within the U.N. system makes the continued use of regional strategies appear more likely to be effective. It also makes ideational resources available for regions to demand space to solve their own problems. Ongoing acts of drawing from and further institutionalizing and developing this norm can serve to both transform and further consolidate it.

[44] Getachew 2019; Simon 2017; Wilder 2015
[45] Acharya and Johnston 2007: 18
[46] Duursma 2020
[47] Mahoney 2010: 17
[48] Acharya 2009, 2016; Barnett 1995b; Esedebe 1994; Fawcett and Serrano 2005; Khadduri 1946a, b
[49] Diehl 2007

2.2.2. Regional implementation as a strategic solution

There are also individual, strategic reasons that states within a region would lean on regional strategies in response to challenges to their self-determination. A regional solution was well-suited to responding to the range of different incentives and preferences of the various actors that had a stake in the implementation of human rights. These actors consist of states, bureaucrats, businesses, and civil society. In general, they can be split into two different categories: those that genuinely support human rights, which I refer to as *proponents*, and those that oppose human rights and do not want to see them enforced, which I refer to as *opponents*.

State *opponents* oppose the enforcement of human rights because they stand to be directly challenged. They may become willing to accept regional human rights mechanisms if their self-determination is challenged by the external imposition of human rights. They might feel excessively targeted by extra-regional actors and believe that regional mechanisms can mitigate this. They may also hope that regional mechanisms might allow them to maintain greater control, though this is balanced out by the need to meet external expectations of independent enforcement. However, even if they do not hold out much hope for maintaining control within their regional organization, they may still believe that regional mechanisms will be more fair and more responsive to them compared to outside implementation. They may also want to avoid particularly undesirable forms of implementation. Finally, they may resent enforcement that they view as hypocritical, biased, or imperialist. Under these circumstances, even challenging regional enforcement may leave them no worse off and possibly better off than other forms of enforcement. These states will be willing to delegate and accept more challenging authority than they otherwise would in order to relieve pressure from and deter enforcement by outside actors and to satisfy regional and domestic civil society, who observe implementation and report information to outside actors.[50]

Even states that have not yet been directly targeted by outside pressure may nevertheless become willing to accept challenging authority. They will do so because they can observe that their region is being targeted for enforcement and use this information anticipate being targeted themselves. If they observe a pattern of targeting the region, they may pre-emptively delegate authority and cooperate with regional enforcement because they anticipate that they are likely to be targeted and are attempting to proactively deter pressure, especially forms of pressure that will squeeze their economy or military.

For state *proponents* within the region, enforcement by a regional mechanism is not viewed as necessarily inferior to other forms of enforcement, and may in fact, be better that outside enforcement. Regional mechanisms can eliminate bias and politicization that may be present in other settings, and which may hinder effective implementation. It can also give regions the ability to determine their own priorities and strategies. These states may be interested in taking a leadership position in implementing human rights. Finally, for those states that genuinely want to see an improvement in human rights within their region, they may expect that regional enforcement and institutionalization will be more acceptable to other states in the region, and they can use the existence of outside pressure to persuade these states to accept regional mechanisms. In addition to advocating for effective regional mechanisms, they may try to reform extra-regional mechanisms and support some outside enforcement.

Both proponents and opponents can be united by the idea that, if they are going to be subject to a rule, they want to be able to meaningfully participate in its implementation and

[50] Keck and Sikkink 1998

elaboration, rather than having these things externally imposed. The imposition of a rule by outside actors can be a worrying development that may portend other forms of undesirable imposition. Even if a state supports human rights *and* supports how they are being implemented, the fact that implementation is imposed in ways that limit their involvement in decision-making means that if future implementation occurs in ways that they do not agree with, it may leave them powerless to do anything about it. Leaders may also resent the imposition of human rights as inappropriate and object to their own subordination. They may also prefer for local and international civil society to work through regional mechanisms, rather than turning to actors from outside of the region for support,[51] and regional mechanisms can enable a boomerang effect that utilizes regional rather than global transnational advocacy networks.

Principled opposition by proponents could involve acceptance of human rights but rejection of its implementation in particular forms, by certain actors, or of being made subject to human rights institutions or policies without their consent. A state could, for example, place great importance on democratic governance but reject invasive or unilateral efforts to punish anti-democratic behavior, as has been the case for democratic Caribbean states that oppose international sanctions against Nicolas Maduro's regime in Venezuela, particularly unilateral sanctions by the United States.

Of course, there are other regional actors besides states that have a stake in human rights being implemented within the region. These include bureaucrats of the regional organization and domestic and regional civil society, who are likely to be proponents of human rights enforcement. Regional enforcement can also be attractive to these actors. Bureaucrats, like states, might be interested in playing a leadership role in implementing human rights, and they may see expanding their organization's authority as in their interest, as it can enhance their own prestige and the prestige of their organization. For these reasons, they will be likely to support an expansion of the regional organization's mandate and a robust role for regional organizations implementing its new mandate.

Domestic and regional civil society also have incentives to favor the creation of *effective* regional human rights mechanisms. These actors are sensitive to criticisms that they are inviting in domestic interference by Western actors engaged in "civilizing" missions.[52] They may see Western dominance of human rights enforcement as adding to the popular perception that human rights are an external imposition.[53] Regional mechanisms are far less likely to face these kinds of accusations. They may themselves also see value in regions managing their own affairs.

Regional implementation can also be effective at satisfying actors from outside of the region, some of which genuinely care about human rights and others which consider demands to engage with human rights to be a nuisance that gets in the way of more important issues. Outside actors that care about implementation include some states, international NGOs, and bureaucrats within international organizations. In order for outside actors to accept regional enforcement as an alternative to their own enforcement, and even to redirect their efforts towards pushing states to engage with the regional system and providing economic support to the regional system, they need to see that the design of regional mechanisms meets minimal expectations of legitimate and effective action. They also need to observe that states are engaging with the regional mechanisms. However, if these conditions are met, outside actors may be happy to defer to

[51] An-Na'im 2000, 2001; De Waal 2003: 485; Mutua 2004
[52] Keck and Sikkink 1999
[53] An-Na'im 2001: 702-703

regional organizations, which can free them up to focus on other priorities and demonstrate that their advocacy and pressure has paid off.

Other outside actors that find human rights to be a nuisance consist of states and businesses who face reputation costs for failing to adequately engage with human rights. Regional mechanisms can give these actors cover to claim that problems have been addressed, allowing them to return to other priorities. These actors are themselves largely indifferent to how effective regional mechanisms are. However, the institutions need to have enough teeth to be satisfactory to the domestic and international groups that are pressuring them to take human rights seriously.

3. Observable implications

In this section, I turn to developing observable implications that I will use to assess the argument I have developed in this chapter. There are a number of challenges to empirically assessing the importance of self-determination in the decision to create regional human rights mechanisms. It is not possible to directly observe leaders' motivation, and there are incentives for leaders to misrepresent their motivations, as announcing that they are creating regional mechanisms to contest or displace outside enforcement could undermine the perceived legitimacy of regional enforcement. There are also challenges in separating out the importance of self-determination from the many other dynamics, pressures, and changes that might be present at the same time. For example, where regional mechanisms sprung up in response to pressure from powerful states, how do we assess whether states were attempting to increase or maintain self-determination *per se*, as opposed to simply attempting to decrease pressure or avoid public shaming? Finally, there is the danger of an ecological fallacy, attributing behaviors and motivations to the region as whole when in fact, different states within the region were behaving differently.

To address these challenges, I derive and assess a set of observable implications which identify distinct behaviors that would be expected if states were motivated by maintaining self-determination but would be unexpected for other explanations. To do so, I employ the same distinction developed in the previous section between *proponents* and *opponents* of human rights. The observable implications focus on states. For states, *proponents* consist of those that support the content of human rights, respect it domestically, and promote it in their own foreign policy. *Opponents* consist of states that do not support human rights and violate them within their own borders. I briefly discuss how these observable implications distinguish between my argument and existing explanations for the creation and acceptance of regional mechanisms before outlining the observable implications in detail. Table 3.1 below provides an overview of the observable implications and notes where they are addressed in the dissertation.

One important way that expectations from my explanation diverge from existing explanations is in how states that support or object to the broad content of human rights will support or object to its implementation in different forms. I focus on instances of states engaging in behaviors that conflict with existing theoretical expectations of how states will act depending on whether they are an opponent or proponent of human rights. Existing theories of cooperation and delegation expect states to demonstrate relatively uniform support for or opposition to human rights policies and their enforcement, depending on whether they are an opponent or a proponent. In other words, generally speaking, opponents will oppose it, while proponents will

support it. Where states behave in ways that go against these expectations, this tends to be viewed as indicating something about how the rule has been designed or is being implemented, or it suggests that new information is being revealed about the state and that it may, in fact, be a different type of state than it first appeared.

For example, where opponents demonstrate support for a policy or its enforcement, they may be doing so as a tactical concession.[54] They may be strategically or cynically supporting human rights only when others, particularly rivals, are being targeted, or where they believe they themselves will not be affected. Finally, they may be supporting policies or forms of enforcement that are relatively weak and therefore less likely to challenge them. Where proponents object to a policy or its enforcement, this may be because the way the policy has been written or is being implemented does not meet their expectations about appropriate or legitimate design or implementation. In other cases, they may do this for strategic reasons. For example, they may be attempting to shield or support an ally. However, this behavior may draw into question the degree to which the state is, in fact, a proponent of human rights.

In contrast to existing theoretical expectations, I expect states to care about and pursue self-determination independent of the content of a given rule or the expected outcomes of cooperation. As a result, I expect to see proponents objecting to implementation in certain forms or carried out by certain actors. I also expect to see opponents engage positively with implementation within the region, even when it is similarly challenging to extra-regional forms of enforcement. Additionally, I expect to see proponents and opponents engaging in collective action to maintain or increase their self-determination over human rights through their regional organization.

Another aspect of state behavior that I focus on is divergent attitudes towards different international authorities. In most cases, existing theories expect states to view all international authorities—and all loss of sovereignty—as the same, apart from the degree to which they impose sovereignty costs.[55] Where they differentiate between different international authorities, they may do so based on the degree to which their specific policies align with regional norms and practice. They may consider that states will view regional organizations as especially legitimate, or actors from outside the region as especially illegitimate. Where they show a preference for regional policies and implementation, it will reflect the fact that regional mechanisms more closely capture their preferences, or they are simply viewed as more legitimate by merit of being conducted by actors within the region.[56] By contrast, my observable implications look for places where states design their regional mechanisms in ways that do not align with regional preferences. I also identify willingness to engage with enforcement by actors from outside the region and to reform extra-regional enforcement rather than rejecting it outright.

For rules regarding normative issues like human rights, existing theories would expect the creation of regional mechanisms to reflect diffusion of the norm through a region or, for liberal norms in particular, to accompany different forms of political liberalization, most importantly the move towards democratic governance. They would also expect that, across regions, the timing of the creation of regional mechanisms and the degree to which they are created with genuinely challenging authority would reflect patterns of norm diffusion, liberalization, and transnational advocacy. By contrast, I expect that the timing of the creation of

[54] Risse *et al* 1999, 2013
[55] Abbott and Snidal 2000; Bradley and Kelley 2008; Epstein and O'Halloran 2008; Hafner-Burton *et al* 2015; Moravcsik 2000
[56] Acharya 2004, 2009, 2011; Duursma 2020

regional mechanisms will more closely align with the onset of challenges to the self-determination of states in the region.

Observable implication 1: Regional discrimination

The first observable implication relates to the question of why states used regional strategies to respond to pressures to self-determination. The onset of challenges to self-determination over human rights is the independent variable which I argue explains why states made the decision to create regional mechanisms. I expect that the independent variable will be realized on a region-by-region basis, meaning that in some regions, there will be challenges to self-determination, while in others, there will not. In particular, I expect that challenges to self-determination over human rights will affect regions where enforcing human rights is relatively cheap—meaning there were few tradeoffs or chances of it damaging other important priorities—and easy—where the availability of pre-existing relationships and institutions into which human rights could be introduced and the likelihood of success was high.

Observable implication 2: Pushing back against implementation

The second observable implication relates to state reactions to enforcement that challenges their self-determination over human rights. Importantly, the external imposition of human rights does not only affect the direct targets of these policies. They affect states that have not themselves been targeted, but who must anticipate being subject to enforcement. They also affect states that otherwise support the human rights and its enforcement, who may not themselves be worried about being targeted, but who are being made subject to the rule whether or not they are actively being singled out for enforcement. These states may object to this in principle or be concerned that the form of enforcement will spread to other issue areas. For these reasons, rather than opponents of human rights demonstrating consistent opposition to the rule and proponents of human rights demonstrating consistent support, I expect that opponents and proponents will both respond negatively to forms of enforcement that challenge their self-determination. I expect proponents of the rule to criticize, push back against, or withhold support for enforcement that they view as an imposition.

Observable implication 3: Timing of creating, accepting, and expanding regional mechanisms

The next observable implication assesses the timing of the decision to create, accept, and expand regional human rights mechanisms. If states delegated this authority in response to challenges to their self-determination, then I expect them to collectively move to do so only *after* challenges to their self-determination over human rights. As a result, I expect that for regions that experience this pressure, cross-regional variation in the timing of the creation of regional mechanisms will follow the timing of costly forms of pressure. This also means that, in regions that do not experience this pressure, I do not expect them to create regional mechanisms that compromise on sovereignty, even if they are experiencing pressure from transnational advocacy groups or are targeted for shaming campaigns within international organizations.

The expectation regarding the timing of the creation of regional mechanisms is central to my argument. However, it is not very distinctive. In particular, it fails to clearly distinguish my

argument from other possible explanations, including that this change was caused by diffusion, regional liberalization, the rise of transnational advocacy, or simply responding to external pressure. However, it produces three additional observable implications which are more distinctive.

First, across all regions, I expect that, before the onset of challenges to their self-determination, human rights proponents will offer only limited and inconsistent support for regional mechanisms that challenge state sovereignty, even though they support human rights. By contrast, I expect to see all states relatively committed to strict norms of sovereignty during this period. Second, within a given region that experiences challenges to their self-determination over human rights, after the onset of these challenges, I expect human rights opponents to become willing to cooperate with and delegate genuinely challenging authority for regional enforcement. This includes states that are not immediately or directly targeted by enforcement by outside actors, but who now have to anticipate being subject to this enforcement. Third, I expect both opponents and states that have strategic reasons to delegate authority to be more willing to accept regional enforcement and to do so earlier and under more challenging circumstances than extra-regional enforcement. Because states view regional enforcement as more conducive to maintaining self-determination and are trying to take over human rights, when these states make tactical commitments, lock in reforms, send costly signals, or attempt to improve their own reputation or the reputation of the region, they will do so disproportionately through regional treaties and enforcement.

Observable implication 4: Meeting external expectations

The next observable implication relates to the design of regional mechanisms. Establishing regional mechanisms that outside actors will accept as a plausible substitute for extra-regional forms of enforcement requires meeting external expectations of appropriate and effective enforcement. Because of this, I expect that in regions where states face challenges to their self-determination, regional mechanisms will resemble global mechanisms, or will mirror the rules and forms of enforcement to which they have become subject, most importantly by compromising on non-interference. Where states localize rules, they will refrain from doing so in ways that undercut external expectations for appropriate and effective implementation. By contrast, in regions that do not face these pressures, I expect that regional mechanisms will not meet these external expectations.

Observable implication 5: Asserting regional authority

The fifth observable implication involves actively asserting the legitimate authority of regional organizations over the rule. I expect to see states—both opponents and proponents—engage in direct, explicit forms of asserting regional authority, such as actively asserting that regions are more effective or more legitimate actors to enforce human rights, and that regions should be allowed to solve their own problems. For opponents, they will assert regional authority even when they are being directly challenged by regional implementation and where they view regional mechanisms as costly and challenging. This observable implication conflicts with theories that would expect these states to be motivated by minimizing their exposure to costly enforcement.

Table 3.1. Observable implications of trading sovereignty for self-determination

Regional discrimination	• Pressure that challenges states' self-determination over human rights will vary by region. • Regional mechanisms that genuinely challenge sovereignty will only be created in regions that face challenges to self-determination. • Cross-regional variation in the timing of challenging regional mechanisms will follow the onset of the external imposition of human rights. *Addressed in: Chapter 5*
Pushing back against enforcement	States, including proponents, will push back against, criticize, and withhold support for enforcement that undermines their self-determination. *Addressed in: Chapters 6, 7*
Timing of creating, accepting, and expanding regional mechanisms	States will collectively move to delegate genuinely challenging authority only after the onset of challenges to their self-determination over human rights. • Before the onset of challenges to self-determination, proponents will offer only inconsistent support for regional enforcement. *Addressed in: Chapters 6, 7, and 8* • After the onset of challenges to self-determination, opponents will become willing to delegate genuinely challenging authority. • After the onset of challenges to self-determination, both opponents and states that have strategic reasons to delegate authority will delegate authority for regional enforcement earlier and under more challenging circumstances than extra-regional enforcement. *Addressed in: Chapters 6, 7*
Meeting external expectations	• After the onset of challenges to self-determination, states will create, accept, and expand regional mechanisms to meet external expectations for appropriate and effective enforcement. • After the onset of challenges to self-determination, where states localize rules, they will not do so in ways that undercut external expectations for appropriate and effective enforcement. *Addressed in: Chapters 6, 7, and 8*
Asserting regional authority	• After the onset of challenges to self-determination, states will assert the legitimate authority of regional organizations over enforcement. *Addressed in: Chapters 6, 7*
Engaging with extra-regional enforcement	• States, especially proponents, will engage with and accept extra-regional enforcement that does not challenge their self-determination. • States, especially proponents, will attempt to reform extra-regional enforcement to reduce or eliminate forms of enforcement that diminish their self-determination. *Addressed in: Chapters 6, 7*

Observable implication 6: Engaging with extra-regional enforcement

The final observable implication pertains to engagement with enforcement of human rights by actors or authorities outside of the region. This implication distinguishes efforts to increase self-determination from an overall preference for regional enforcement or a desire for regional autonomy. Rather than simply rejecting outside enforcement, I expect states, especially proponents of human rights, to engage with and support outside enforcement where they view it as fair and allowing for equal participation. Where they view outside enforcement as undermining self-determination, they may advocate for reforms rather than rejecting it outright.

4. Conclusion

States that are faced with challenges to their self-determination over human rights may respond by trading sovereignty for self-determination. Doing so helps them to avoid having authority imposed and ensures their ability to participate in human rights enforcement. As I have argued, self-determination is something that state actors value and that they will act to realize. Because of this, certain international behaviors and outcomes cannot be fully explained without accounting for self-determination as a motivating factor for states and a goal for collective action in and of itself. In fact, efforts to maintain self-determination over international rules can lead to behaviors that are unexpected if one only considers the content of the rules.

In the following chapters, I shift to examining empirical evidence for this argument. In Chapter 4, I look at the broad transformation of human rights as an issue area, which took place in the 1970s when Western states began to push their own human rights priorities in ways that challenged the self-determination of states in the Global South. This change brought about the rise of regional human rights enforcement as a central piece of the global human rights regime. In Chapter 5, I provide evidence that these challenges to self-determination varied by region, with Western governments pursuing enforcement where doing so was easy, likely to be successful, and did not jeopardize other foreign policy priorities. As I develop in Chapters 6, 7, and 8, these regional pressures led to the decision by states in regions in the Global South that faced them to compromise on the norm of non-interference within their own regional organizations, shifting away from a stance of strict non-interference towards one of empowering their regional organizations to enforce human rights. They did so while asserting the authority of their regional organizations to actors outside of the region.

Chapter 4. The Changing Shape of International Human Rights

In the 1970s and 1980s, states in Latin America and Africa began to compromise on the norm of non-interference, delegating challenging authority for enforcing human rights to their own regional organizations. These changes that occurred within individual regional organizations are the primary focus of this dissertation. However, they cannot be understood apart from the context of broader changes that took place in the practice of international human rights at this same time. The way that human rights were ultimately institutionalized in regional organizations was substantially different from how they were being advocated for by the Global South up until and continuing through the 1970s. Most importantly, up until and even through the 1970s, states in the Global South advocated for an understanding of human rights that was consistent with and even supported the strengthening of norms of sovereignty and non-interference.
The changes responded to the shifting expectations in human rights and human rights enforcement that emerged during this decade.

As I develop in this chapter, in the first decades after the institutionalization of human rights in the United Nations and the Universal Declaration of Human Rights (UDHR), the practice of international human rights looked very different than it does today. In these early decades, human rights were not a priority for Western states within the U.N., and activity in U.N. human rights bodies was dominated by the Global South, who primarily focused on areas that did not challenge their own sovereignty, such as the right to self-determination, the obligations of developed states to provide economic assistance to developing states, and racial discrimination. The main development that took place at this time which resembles present-day human rights was the drafting of the international human rights conventions, which concluded in 1966.

This changed in the early 1970s, with the emergence of a robust transnational human rights advocacy network. As a result of pressure from these networks, for the first time, Western states began to assert a leadership role in promoting and protecting human rights throughout the world. In doing so, they moved human rights into new contexts like bilateral economic assistance, international financial institutions, and bilateral and multilateral trade agreements. The focus of international NGOs and Western states also shifted the emphasis of international human rights towards violations of physical integrity rights (e.g. the right to life, prohibitions against torture, *habeas corpus*) within individual states.

For states that were subject to them, these policies, and the new forms of enforcement used to implement them, represented a challenge to their self-determination over human rights. By linking human rights to things like the provision of economic assistance and access to trade on which these states were heavily dependent, it took human rights out of their hands, drastically limiting their ability to domestically affirm these rules and to meaningfully participate in their implementation. Nearly all states in the Global South, including states that themselves were important proponents of human rights, regarded these measures as inappropriate and as themselves violations of human rights, as they understood them at this time. However, because they were implemented within relationships of dependency and in institutions in which they were structurally disadvantaged, they lacked tools to effectively contest or resist these new forms of authority.

1. Human rights from 1945 to the early 1970s

In this section, I demonstrate how human rights prior to the 1970s, especially as they were pursued within the United Nations, differed from their present practice. Before the 1970s, human rights largely focused on implementation that placed demands on wealthy, powerful, Western states to fulfill the rights of people within developing states. These priorities came into direct conflict with the measures used by Western states to enforce human rights.

1.1. Non-interference and human rights in the U.N.

Human rights entered the global lexicon in the 1940s via their incorporation into the charter of the newly formed United Nations, in 1945, and the drafting and adoption of the Universal Declaration of Human Rights in 1948.[1] Because of a combination of institutional rules that favored weaker states and Western indifference, human rights activities within the U.N. were driven by the interests and priorities of states in the Global South.[2] In terms of institutional rules, human rights implementation during this time took place primarily in the U.N. Commission on Human Rights (UNCHR) and the Third Committee of the General Assembly on Social, Humanitarian and Cultural issues, where membership was representative, in the case of the UNCHR, or universal, in the case of the General Assembly. Equal voting rules governed decision-making in both, and the Global South gained a numerical advantage, as dozens of new states gained independence during the decolonization of the 1960s and the UNCHR's membership rules were reformed to increase the number of Global South states on the committee in 1967.

Western states had been ambivalent about adding human rights language to the U.N. Charter, and in the first few decades after the U.N. was established, they remained uninterested in engaging with human rights in the U.N.[3] This disinterest was exemplified by the tendency for Western states to use positions in delegations to the UNCHR and Third Committee as political or personal rewards for people that otherwise had no experience in diplomacy, while they focused on what they regarded as more important economic and security issues.[4] Historian Roland Burke shows that during these early decades, Western states treated human rights issues within the U.N. as a "safety valve." By letting states in the Global South get what they wanted in the Third Committee and the UNCHR, they hoped that these states would be more willing to fall behind Western positions in the First and Second committees on security and economic issues.[5] Western European states primarily engaged with human rights within their own regional system, in no small part because of their own vulnerability to human rights criticism in territories that remained under their colonial control.[6]

As a result, human rights in the U.N. were focused in large part on the priorities of the Global South, with the important exception of the drafting and adoption of the international human rights covenants, which was completed in 1966. Otherwise, human rights as pursued in the U.N. by the Global South had two key features which distinguished it from the way that

[1] Evans 1996: 2; Henkin 1990
[2] Burke 2011; Jensen 2016
[3] Burke 2011; Eckel 2010: 126; Glendon 2003; Sikkink 2014
[4] Burke 2011: 7, 9-11
[5] *Ibid*: 8
[6] Eckel 2010: 124-125; Eckert 2012; Ibhawoh 2018: 137-138; Lowman 2022: 4

human rights would come to be pursued in later decades, and which highlight the extent to which later implementation by Western states clashed with and undermined the priorities of Global South.

The first was an understanding of human rights that placed the burden for realizing human rights and the blame for violating them directly on powerful Western states. This was part of an *international model* for human rights. According to the international model, actors from outside of the state are an important source of violations of human rights. In part because of this, states have what are sometimes referred to as "extraterritorial obligations," in which they bear responsibility for the human rights of people beyond their own borders.[7] In this framework, people remain the holder of rights, but duty bearers also include actors outside of the state. This stood in contrast to what has become the dominant, *domestic model* of human rights, in which responsibility is limited by state borders, with state governments responsible for the human rights of the people within their own state borders. Though the singular dominance of the domestic model has been challenged in recent years, by the late 1980s, it had become the dominant way of conceptualizing human rights.[8]

Second, within this focus on an international model, advocacy within the U.N. was focused on the right to self-determination, as realized through state sovereignty, and economic and social rights, as realized through international obligations to provide development assistance, with the latter eventually manifesting as the right to development. Many activists, jurists, leaders, and scholars from the Global South argued that these rights could not be properly understood or realized without foregrounding the central role played by actors outside of the state.

These two models of human rights were not exclusive of one another, and many actors from the Global South also agreed with core the ideas contained in the domestic model pertaining to the duties of governments towards their own citizens.[9] Instead, for many, their approach was about pursuing both domestic and international models of human rights as necessary and mutually reinforcing components of human rights. In the decades before the drafting of the Universal Declaration on Human Rights, a diverse array of actors in the Global South developed ways of thinking about global justice, problems of deprivation and oppression, and both individual and collective rights that conceived of these problems as inherently global in nature. In the decades after the adoption of the UDHR, states from the Global South pushed to make this understanding of human rights a priority within the U.N., with a focus on the right to self-determination and the right to development.

These features made human rights, as advocated for by representatives from the Global South, not only consistent with non-interference in their own internal affairs, but expressly aimed at expanding the norm of non-interference, increasing the capacity of the state, and directing resources from the West to the Global South. This was true not only for states that were abusing human rights. It was also advocated for by proponents of human rights, including some of the Global South's most important human rights advocates. In the following sections, I first outline the international model of human rights as it was pursued by the Global South before demonstrating how it applied to the right to self-determination and the right to development.

[7] Courtis and Sepulveda 2009; Gibney and Skogly 2010; Jurkovich 2020: 83-108: Nelson and Dorsey 2008; Ssenyonjo 2011; Skogly 2006. On the concept of duties for human rights, see Donnelly (1986).
[8] ETO Consortium n.d.; Nelson and Dorsey 2008
[9] Sikkink 2014; Simon 2017

1.1.1. The right to non-interference

The right to self-determination, though it is now accepted as a core human right, was not included in the Universal Declaration, and it was at the initiative of the Global South that this right was added to the International Convention on Civil and Political Rights (ICCPR), which was adopted in 1966.[10] This right was one of the central human rights priorities of the Global South during this time, and sovereignty and non-interference were integral to the realization of this right. The right to self-determination created responsibilities for actors outside of individual states, including to cease violations in the form of foreign domination.

This way of understanding interference in sovereign states as a violation of the people of that state's right to self-determination appeared in the thinking of a range of actors from or concerned with the Global South long before the institutionalization of human rights in the 1940s. This was true for Latin American states, which began to gain independence in the early nineteenth century, long before most other parts of the Global South. Though they did not use the term "self-determination," they put forward a view of individual rights that emphasizes denials of liberty that result from interference by outside actors.

This view was captured by Alejandro Álvarez, a prominent legal scholar from Chile who is sometimes referred to as the father of American international law.[11] Álvarez wrote in 1909 that the liberty of newly independent Latin America was threatened by foreign domination. Against this, states had to work together to "protect themselves against all attacks on their sovereignty."[12] For these newly independent states, the struggle to gain and retain their independence in the nineteenth century included guarding against the credible threat of re-colonization, with sovereignty seen as a solution to the problem of tyranny and oppression.[13] From early on, Latin America was an important source of legal developments and advocacy aimed at strengthening international law on sovereignty and non-interference, including narrowing the circumstances under which interference was permitted.[14]

These same views on the link between sovereignty and individual rights were still present in Latin America by the 1940s, motivating the establishment of the American Committee on Dependent Territories within the Organization of American States in 1948. In a declaration adopted alongside the establishment of the committee, states declared that "the historical process of the emancipation of America will not be complete so long as there remain on the continent peoples and regions subject to a colonial regime." The declaration noted "the right of the peoples of this continent to freely determine their own destinies," and declared that "it is the just aspiration of the Republics of America that the status of colonies that subsists in the Continent be terminated." The declaration and the committee were aimed at bringing an end to European colonialism in the Western hemisphere,[15] though, it should be acknowledged that the declaration did not use the words "human rights" or "rights of man."

This way of understanding international violations of individual rights was also promoted by important members of the Pan-African movement at the start of the twentieth century. Pan-Africanism framed the struggle against racism within countries like the United States as

[10] Getachew 2019: 71-106
[11] Obregón 2009: 95
[12] Álvarez 1909, quoted in Becker Lorca 2006: 911
[13] Ball 1961: 21; Cabranes 1967: 1151; Mace 1988: 404-405; Simon 2017.
[14] Cabranes 1967, 1968; Finnemore 2003; Obregón 2009: 95-96; Sikkink 1996
[15] Fenwick 1950: 364-367; Organization of American States 1948b

inextricably linked to the struggle against colonial domination of non-White peoples throughout the world. The individual rights of both were both violated by Western governments. This idea was most famously captured in W.E.B. Du Bois's concept of the global color line. Du Bois asserted that "The problem of the twentieth century is the problem of the color-line—the relation of the darker to the lighter races of men in Asia and Africa, in America and the islands of the sea."[16] In the first half of the twentieth century, Pan-Africanists struggled for an end to domestic racial discrimination alongside an end to colonialism.

This focus on the international sources of the violation of individual rights persisted into the decolonization of the mid-twentieth century. It came to be central to the right to self-determination as advanced within the U.N., frequently targeting colonization and *apartheid*, including the West's perceived complicity with *apartheid*. However, as more states gained their independence, their efforts focused more on addressing the ways that their *de jure* independence was undermined by their vulnerability to external pressure and informal forms of control.[17]

This understanding of international threats to the self-determination of independent states was perhaps most prominently articulated by Kwame Nkrumah, who led Ghana to independence in 1957 and became the country's first post-independence leader. Nkrumah used the term neo-colonialism to describe the ways that the independence of African states was undermined by their own weakness and by pre-independence forms of economic control, which compromised their political independence.[18] Similarly, socialist and non-aligned states in the Middle East and North Africa promoted the idea of Western imperialism as a violation of the right to self-determination.[19] Gamal Nasser, who was leader of Egypt and one of the founders of non-aligned movement, stated in a speech to Egyptian army officers that "Egypt…is beginning one phase of liberation, [and] must rid herself completely of every influence so that she can stand on her own feet."[20] Syrian Ba'athists and independence leaders in Algeria were also important proponents of the right to self-determination in the form of freedom from spheres of influence and outside domination.[21]

In response to this problem, the efforts of Global South leaders aimed at realizing self-determination grew to encompass creating more expansive norms of sovereignty and non-interference and on framing violations of these norms as violations of the human right to self-determination.[22] This reframing formed an important part of the advocacy in the U.N. during this time. For example, in an address to the U.N. General Assembly in 1968, the delegate from Barbados noted the "great importance" that they attach to protecting the right to self-determination against "the creeping twilight of new imperialisms."[23] Caribbean states commonly referenced the special pressures faced by small states[24] and the right of all peoples to choose their own political, economic, and cultural institutions.[25]

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[16] Du Bois 1961: 23
[17] All-African Peoples' Conference 1960: 22-23; Getachew 2019: 98-104; Nkrumah 1965
[18] Nkrumah 1965
[19] Nasser 1954; Özsu 2015
[20] Podeh 1996: 170-171
[21] Özsu 2015; Peretz 1965: 37
[22] Getachew 2019; Nkrumah 1965; Prashad 2007. Many of these efforts closely resembled earlier efforts of Latin American states, and many directly borrowed from the language of regional documents and were headed by Latin American leaders. I discuss these regional efforts in more detail in the next chapter.
[23] U.N. General Assembly 1968: Para. 80
[24] U.N. General Assembly 1967: Para. 44, 47; U.N. General Assembly 1968: Para. 62-63, 80; U.N. General Assembly 1969: Para. 98-99; Caribbean Community 1982
[25] Grant 1984; Caribbean Community 1982; UNGA 1967b

The idea that both gaining and effectively exercising sovereignty was a core component of self-determination was captured in the 1960 U.N. General Assembly Declaration on the Granting of Independence to Colonial Countries and Peoples, one of the most important documents of the anti-colonial movement.[26] The declaration states that "all peoples have an inalienable right to complete freedom, *the exercise of their sovereignty* and the integrity of their national territory."[27] This included the right to "freely determine their political status and freely pursue their economic, social and cultural development."[28]

In subsequent years, states expanded their advocacy towards establishing what actions by other states constituted a violation of this right. Among those actions identified as violating the right to self-determination were any that constrained or unduly influenced states' decision-making. As part of this, they pushed to expand the range of actions that constituted interference in states' domestic affairs, labeling these acts of interference as violations of the right to self-determination. This is captured in the 1965 General Assembly Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty. The declaration utilizes much of the language from the 1960 declaration, but it expands on the earlier declaration by defining precisely what constitutes interference and, as a consequence, a violation of self-determination. The declaration proscribes "armed intervention *and all other forms of interference*" against a state or "its political, economic and cultural elements," including "us[ing] or encourag[ing] the use of economic, political *or any other type of measure* to coerce a State in order to obtain from it the subordination of the exercise of its sovereignty rights."[29] In discussions prior to the adoption of this declaration, states were explicit that the content of the declaration was a matter of realizing the right to self-determination.[30]

The phrases "all other forms of interference" and "any other type of measure to coerce a State" were intended as broad prohibitions against any form of unwanted action that constrained a state's ability to determine its own foreign and domestic policies and its domestic institutions. Among the actions that were intentionally prohibited by this language were the use of economic aid and technical assistance to influence recipient state actions or to undermine policies that a donor state did not approve of.[31] State representatives made clear that any use of economic pressure or attempt to wield economic assistance to influence states' domestic policies constituted forms of prohibited intervention.[32] For example, during debates over the implementation of the 1965 declaration the following year, Argentina's delegate argued that:

> "The traditional idea that only the threat or use of armed force constituted intervention was too restrictive for the present age. It overlooked other types of interference… [including] economic pressure…The basic criterion for determining whether there was intervention…was whether there was any open or disguised coercion to make a State do

[26] Getachew 2019
[27] U.N. General Assembly 1960: Preamble. Emphasis mine.
[28] *Ibid*: Article 2
[29] U.N. General Assembly 1965a: Article 1-2. Emphasis mine.
[30] See, for example, U.N. General Assembly 1965b: Para. 66-67, 73, 107, 128
[31] This position had been developed by Latin American states and was institutionalized in the Charter of the Organization of American States in 1948 in response to fears of U.S. economic and military hegemony in the Western hemisphere. The language from the O.A.S. Charter was adopted almost word for word in the 1965 declaration.
[32] U.N. General Assembly 1966a, b

> something contrary to its desires and interests or to prevent it from doing something which it could legitimately do otherwise."[33]

Latin American states played a central role in the drafting and adoption of this declaration. They had not used the term "self-determination" early on to label their expansive demands for non-interference vis-à-vis their relations with the United States. However, as calls for self-determination became prominent in global politics, they began to articulate the problem of informal economic control by and dependency on the United States as undermining the right to self-determination.[34] The Latin American influence on the 1965 declaration is reflected in the fact that important parts of the declaration's language closely match the language on non-interference as codified in the O.A.S. Charter.[35]

This advocacy continued into the 1970s and 1980s. The 1970 U.N. General Assembly Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States was another important example. The declaration stressed "the principle of equal rights and self-determination of peoples" in reiterating many of the same points about prohibiting the use of economic, political, or "any other type of measure" against another state as a way of "obtain[ing] from it the subordination of the exercise of its sovereign rights."[36] These efforts also formed part of the campaign for a New International Economic Order (NIEO), which was launched within the U.N. in 1974. The Charter of Economic Rights and Duties of States, adopted by the U.N. General Assembly that year as one of two foundational documents of the NIEO,[37] asserts that "Every State has the sovereign and inalienable right to choose its economic system as well as its political, social and cultural systems in accordance with the will of its people, without outside interference, coercion or threat in any form whatsoever."[38]

The right to self-determination, conceptualized as a right to be free from interference, emphasizes rights and duties that transcend state borders. A core feature of the right to self-determination is the right of peoples to exercise their sovereign independence by freely determining their own domestic economic, cultural, and political systems, institutions, and policies. Other states, most importantly more powerful states, have the *duty* to refrain from taking actions that would violate or limit this right, including through the use of economic pressure or conditions.

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[33] U.N. General Assembly 1966a

[34] Lerner 1980

[35] This comparison is based on Articles 15 and 16 of the original 1948 O.A.S. Charter Articles 1 and 2 of the U.N. declaration. For example, Article 15 of the O.A.S. Charter says "No State or group of States has the right to intervene, directly or indirectly, or any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits riot only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic and cultural elements." Article 1 of the U.N. declaration says "No State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are condemned."

[36] U.N. General Assembly 1970

[37] U.N. General Assembly 1974. The other foundational document was the Declaration for the Establishment of a New International Economic Order. Both were adopted as U.N. General Assembly resolutions in 1974.

[38] The charter further elaborates the activities a state should be able to freely engage in without outside interference or pressure, including regulation of foreign investment, nationalization of property, and selection of which states it associates or trades with.

1.1.2. The right to development assistance

The international model also extended to economic and social rights. It manifested in claims that wealthy, developed states were responsible for the under-development of the Global South and, as a consequence, for the violations of economic and social rights that resulted from their under-development. International responsibility for human rights violations took the form of historical responsibility via the effects of colonization and the slave trade on present-day poverty and under-development. It also took the form of structural responsibility, due to Western governments' responsibility for upholding an international economic order that unjustly concentrated wealth in the West by perpetuating unfair trade patterns and upholding burdensome debt servicing. Historical and structural responsibility were linked, in that the current patterns and structures of the global economy were seen as vestiges of colonialism.[39] Finally, Western states were directly responsible for violations of economic and social rights through their use of economic pressure against states in the Global South states. They were also directly responsible for undermining the human right to permanent sovereignty over natural resources by preventing them from nationalizing natural resources in order to utilize them towards their own development.[40]

Because of their responsibility for these violations of economic and social rights in developing states, these same wealthy states were also responsible for realizing economic and social rights via international development assistance, as well as through reorganizing the international economic system so that wealth of the developing world was no longer flowing to the developed world.[41] Starting in 1972, this understanding of economic and social rights was pursued in the form of the human right to development, but it was also prevalent in earlier demands made within and outside of the U.N.

However, even before the drafting and adoption of the Universal Declaration of Human Rights, activists, jurists, leaders, and scholars throughout the Global South advocated for the idea that Western states bore responsibility for committing and repairing violations of economic and social rights in the Global South. Latin America was an important early source of the idea of international responsibility. One example is found in the legal scholarship of Alejandro Álvarez, the Chilean jurist referenced above. Álvarez was the author of a draft declaration which proved to be among the most influential documents in creating the UDHR.[42] He was also a major proponent of the idea of international solidarity, or the idea that international law needed to reflect morality and mutual obligation between states.[43] His draft declaration included the right to food[44] and housing, alongside a comment that "governments should recognize…their obligation to their respective peoples *and to one another*" for these rights and should "co-operate…with other nations for the achievement of these ends."[45]

Throughout the first half of the twentieth century in Latin America, political parties and national leaders advocated for nationalizing foreign economic interests and limiting foreign ownership as a way of realizing economic and social rights. An example was the 1917 Mexican Constitution, which was groundbreaking both in its inclusion of extensive economic and social

[39] Fioretos 2020; Gathii 2020; Getachew 2019; U.N. Commission on Human Rights 1977: 10-11.
[40] Anghie 2005: 209-223; U.N. Commission on Human Rights 1977: 10-11.
[41] U.N. Commission on Human Rights 1977: 10-11.
[42] Glendon 2003: 31-32; Obregón 2009: 95-96
[43] Álvarez 1919; Samore 1958
[44] Jurkovich 2020: 24
[45] United Nations 1946: 12. Emphasis mine.

rights and the way that it set out economic nationalism as a means to realize those rights.[46] Similarly, the solutions Latin American dependency theory proposed for under-development consisted of a combination of *regional* economic nationalism, in the form of increased intra-regional cooperation and restrictions on imports from outside of the region, and resource transfers from developed states.[47]

These ideas inspired socialist political parties,[48] student movements[49], Catholic theologians,[50] and economists[51] towards ways of thinking that emphasized international capitalism and the dominance of foreign economic interests as a major cause of domestic economic and social deprivation. For example, in the 1930s, a progressive Catholic theology emerged, which by the 1960s had developed into Liberation Theology. It emphasized, among other things, the international capitalist forces which oppress and exploit the poor and marginalized.[52] Around the same time but coming from a very different source, Latin America dependency theory emerged as an important way of understanding the region's under-development. Developed in part by Argentinian economist Raúl Prebisch in the late 1940s, dependency theory asserted that the developing world was held in a state of under-development by a global economic system in which global wealth accrued to developed core at the expense of the under-developed periphery.[53]

This was of understanding economic and social rights, with their realization creating a duty for developed states to assist in the development of less-developed states, influenced human rights activity within the context of the Organization of American States. In 1942, Latin American states adopted the Declaration of Santiago on Social Security, which asserted that "the health, capacity and welfare of the workers of any one American nation is a concern of all American nations," requiring "a concerted effort of all the nations…to abolish misery." The declaration calls for a "continental program" to "create new links of solidarity for the solution of the[se] problems."[54] In 1945, a draft of the American Declaration on the Rights and Duties of Man was prepared by a group of jurists, along with an accompanying report noting that "international cooperation must seek to overcome the disparities between states in the same way in which the individual state itself must seek to overcome the disparities between its citizens."[55] It also influenced their ideas about economic development in the form of Latin American dependency theory.[56]

Pan-Africanism also emphasized the international causes of violations of economic and social rights. In 1915, W.E.B. Du Bois theorized that international capitalism, or "industrial imperialism," was a manifestation of international white supremacy that exploited Black labor on a global basis and perpetuated the under-development and discriminatory treatment of non-white

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[46] Andrew and Cleven 1921; Bullington 1927
[47] Prebisch 1962
[48] These included the Cuban Revolutionary Party, Partido Socialista de Chile, Alianza Popular Revolucionaria Americana in Peru, the Judicialista in Argentina, Partido de la Revolución Mexicana in Mexico, and Partido Acción Revolucionaria in Guatemala.
[49] Slim 2002
[50] Dussel 1981: 106-113, 127-239; Sanders 1970
[51] Prebisch 1962
[52] Dussel 1981: 106-113, 127-239; Sanders 1970
[53] Prebisch 1962
[54] Peaslee 1974: 803-805
[55] Inter-American Juridicial Committee 1946: 110
[56] Prebisch 1962

colonized peoples.[57] This idea was represented prominently in Pan-African Congresses during the first half of the twentieth century, as well as in Pan-African participation in the Communist International during the inter-war years.[58]

Another important and influential example came from Eric Williams' 1944 book *Capitalism and Slavery*, based on his 1938 doctoral thesis. Williams was a prominent anti- and post-colonial leader who eventually became the first prime minister of independent Trinidad and Tobago. In his book, Williams argues that the poverty of the Caribbean had been directly caused by enslavement and colonization by the United Kingdom.[59] His book was one of a number of important intellectual influences for African and Caribbean liberation and post-colonial movements. Many anti-colonial and post-colonial leaders and activists throughout these regions argued that a restructuring of the international economy was necessary in order to prevent post-colonial states from being further impoverished for the enrichment of developed states, controlled by foreign interests, and bound by international racial hierarchies.[60]

Following a similar logic but envisioning a very different political form, in the 1940s, Aimé Césaire of Martinique and Léopold Senghor of Senegal, leaders of the *négritude* movement, insisted that France take responsibility for its imperial history by enacting a sort of international solidarity from within, transforming its empire into a massive, democratic federal state within which all citizens would be granted the same economic and social rights that France then extended to its citizens in the metropole.[61]

The idea that responsibility for under-development created duties for wealthy, developed states towards people in poorer, weaker states informed human rights advocacy by the Global South within the U.N. in the decades after the adoption of the UDHR.[62] During the drafting of the International Convention on Economic, Social and Cultural Rights, a number of representatives from the Global South tried, unsuccessfully, to incorporate international duties, including references to reparations for colonialism and international measures against structural causes of under-development. The representative of Algeria was especially direct in asserting the obligations of former colonial powers, noting "nations that were or had been colonized did not go begging, but called for the restoration of their rights and property."[63] A Chilean representative made a formal proposal, which was rejected by developed states, to include express duties for state parties to the convention to provide international assistance to less-developed states.[64]

In the U.N. Commission on Human Rights, developing states emphasized the impossibility of realizing economic and social rights on their own given their current state of economic development, and that doing so necessitated external assistance from the developed world.[65] Chilean diplomat Hernán Santa Cruz, who had served as one of eight members of the UDHR drafting committee and was the member often credited with ensuring that economic, social, and cultural rights were included,[66] argued in the U.N. Commission on Human Rights

[57] Du Bois 1915
[58] Kelley 2012
[59] Williams 1944
[60] Getachew 2019; Nkrumah 1965; Prashad 2007; Rodney 1972
[61] Wilder 2015
[62] Alston 1991: 220; Boilard 2019; Burke 2008; Fukuda-Parr 2012: 850.
[63] Alston and Quinn 1987: 189
[64] *Ibid*: 189
[65] Alston and Quinn 1987; Boilard 2019
[66] Dag Hammerskjold Library n.d.

(UNCHR) for the responsibility of developed states to realize economic and social rights in developing states.[67]

The campaign for the human right to development emerged out of these efforts. The concept of the right to development as a human right is typically attributed to Keba M'Baye, a respected Senegalese jurist who served as a judge at the International Court of Justice and was the author of the first draft of the African Charter on Human and People's Rights. M'Baye introduced the concept of the human right to development during a speech to the International Institute of Human Rights in Strasbourg in 1972. In this speech, he justified the right to development as a "moral imperative" brought about by the historical and structural sources of under-development. These included an unfair international economic order, within which the countries of the Global South serve as "reservoirs of raw materials and cheap labor" for the West,[68] and which, he asserted, was the modern-day manifestation of former colonial relations.[69]

Because of their advantaged position within an unjust international economy, as well as their current and historical culpability for the under-development of the Global South through colonization, "rich states" bore a responsibility to realize the right to development. M'Baye made this explicit, noting that:

> "Some of these events…go back quite far in the past; but their consequences are still felt today with dramatic topicality. The harm they cause must be endorsed by those who caused them; it is a basic principle of justice… [*T]hese responsible peoples must not only account for these events, but repair the damage they caused*."[70]

In 1974, as Senegal's representative to the UNCHR, M'Baye introduced the right to development into the United Nations. He stated in the UNCHR that "[t]he responsibility for ensuring that everyone enjoyed human rights fell largely upon the rich countries," who were "responsible for international events and their consequences."[71] Meeting records from the UNCHR that year indicate that a number of states echoed this belief that "the international community, in particular economically developed countries, had a duty to extend all possible co-operation" towards realizing economic and social rights in developing countries.[72]

These demands, made within the context of human rights debates, were part of a broader campaign for a New International Economic Order (NIEO), which similarly asserted that the developed world had far-reaching duties to create a more just international economic order that would enable economic development.[73] The Charter of Economic Rights and Duties of States, one of the NIEO's foundational documents, articulates specific duties that wealthy states bear, including a duty to eliminate the "social consequences" of colonialism. The charter asserts that states are "economically responsible" to countries that have been affected by colonialism, including for providing restitution and compensation.[74]

The campaign to create international duties for the human right to development within the U.N. began in earnest in 1977 and took the form of carrying over the demands of the NIEO

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[67] Boilard 2019: 122-127; Quiroga-Villamarín 2019: 83, 92; Santa Cruz 1995
[68] M'Baye 1972: 515 (Author translation).
[69] *Ibid*: 515-516
[70] *Ibid*: 522: Emphasis mine.
[71] Quoted in Boilard 2019: 20.
[72] U.N. Commission on Human Rights 1974: 27
[73] Anghie 2019; Ibhawoh 2011: 81-82
[74] U.N. General Assembly 1974, Article 16

into human rights debates.[75] That year, the Global South used its voting majority to commission a study by the Secretary General on the "international dimensions" of the right to development "taking into account the requirements of the New International Economic Order."[76] They also passed a General Assembly resolution recognizing the right to development as a human right and stating that "the realization of the new international economic order is an essential element for the effective promotion of human rights and fundamental freedoms."[77]

According to both the human right to development and the NIEO, wealthy, developed states in the West bore positive duties to reform the rules and institutions of what they viewed as an unjust international system, engage in preferential trade, transfer technology and resources, and provide compensation for colonialism. In this way, things like development assistance and preferential trade were seen as an entitlement of developing states. Developed states also bore "negative" duties to refrain from actions that would create obstacles to development, which included placing economic conditions on trade or development assistance or applying any sort of economic or political pressure.[78]

1.1.3. Human rights proponents and the international model

A common criticism that has been directed at this form of human rights, and at collective rights in general, is that they represented a cynical attempt by leaders to hide or justify their own human rights abuses and authoritarian control.[79] This criticism overlooks the fact that when states first began to develop these standards in the first half of the 1960s, developed states were still more than happy to cooperate with and give aid to friendly dictators in pursuit of their Cold War goals. At the time, pressure in the form of aid conditionality and subversion were used mostly in pursuit of Cold War policies or to prevent states from expropriating foreign holdings.[80]

It also overlooks the fact that both the right to self-determination and development were advocated for by proponents of human rights. Many states and state representatives supported both the international and domestic models of human rights, viewing them as mutually reinforcing. Among states, this conception of human rights was supported during this time by important proponents of human rights, including Senegal which, under Léopold Senghor, was a key actor from the Global South in pushing forward the practice of protecting and promoting both the domestic and international side of human rights.[81] Similarly, Costa Rica and Venezuela, both important proponents of human rights at this time, advocated for both.[82]

The Commonwealth Caribbean states have consistently been among the strongest democracies in the Global South with some of the most consistently positive records of respecting civil and political rights, and they have also been some of the biggest advocates for this understanding of human rights. For example, at the 1977 U.N. General Assembly debates, a

[75] Ibhawoh 2011: 81-83; U.N. General Assembly 1977a
[76] The commissioned report is titled "The International Dimensions of the Right to Development as a Human Right in Relation with other Human Rights based on International Co-operation, Including the Right to Peace, Taking into Account the Requirements of the New International Economic Order and the Fundamental Human Needs."
[77] Ibhawoh 2011: 82; U.N. General Assembly 1977a
[78] U.N. General Assembly 1974
[79] Burke 2008; Ibhawoh 2018: 173-180
[80] Anghie 2005; Prashad 2007
[81] Gathii 2021, Ouguergouz 2003: 39-41
[82] For Costa Rica, see U.N. General Assembly 1977i: Para. 116-117, 1977f: Para. 174. For Venezuela, see U.N. General Assembly 1977k: Para. 44.

representative from Jamaica linked the denial of the right to self-determination of independent states to the "yoke of colonialism" whose "vestiges still remain."[83] In 1968, two years after achieving independence, a representative of the government of Barbados to the General Assembly complained that "those same nations which have been the major beneficiaries of those wicked years [of colonialism] are shirking their responsibility to assist in [our] rehabilitation."[84]

During this time, support for the rights to self-determination and development, understood in the way I have developed here, received nearly uniform support from the states of the Global South, including both proponents and opponents of human rights. The split in support was along the lines of developed and developing states, with Soviet states tending to opportunistically support the Global South's position.[85]

2. The 1970s and changes in human rights

Prior to the 1970s, human rights activity in the U.N. had been primarily taken place in U.N. bodies in which there was a high level of formal equality of states. Within these bodies, Western states had largely deferred to the Global South. The type of human rights that were advocated for within the U.N. at this time emphasized an international model of responsibility that was aimed, in part, at expanding the ability of states in the Global South to meaningfully exercise sovereignty and to enhance state capacity via non-interference and the right to development assistance.

However, beginning in the early 1970s, a "breakthrough" in international human rights led to major changes to the practice of human rights,[86] introducing new actors and moving human rights into international bodies like international financial institutions and multilateral treaties between Western states and the Global South, as well as into direct relations between the West and states in Global South. This was accompanied by a shift towards greater emphasis on the domestic model of human rights, with special focus on physical integrity rights that later broadened to include civil and political rights, more generally.

At this time, interference in states' domestic affairs became a core component of international human rights, and one form that this came to take was the use and institutionalization of economic pressure to enforce human rights. For states that became subject to these policies, these changes represented a challenge to their self-determination. They also came in direct conflict with the human rights priorities that were being advocated by the Global South at this same time. Western states effectively took over human rights by moving their design and implementation into contexts where they could control decision-making and impose policies on states who relied on access to these resources and positive relations with them.

[83] U.N. General Assembly 1980a: Para. 141
[84] U.N. General Assembly 1968
[85] Rich 1985: 130
[86] Borstelmann 2013; Brier 2015; Burke 2015; De Waal 2003; Eckel 2019; Eckel and Moyn 2013; Kelly 2013a, Kelly 2013b; Lorenzini *et al* 2021; Mohandesi 2017; Morgan 2011; Moyn 2010

2.1. Western states take over enforcement

It is a fairly widely agreed upon fact that both the Western inattention to human rights and the broad deference to the norm of non-interference came to an end in the early 1970s.[87] At the beginning of the 1970s, there was a sudden growth of attention to human rights violations from the Western public, led by a revamped and rapidly expanding Amnesty International, along with the growing influence of other non-government human rights organizations.[88] The Western public began to demand that their leaders take action in response to human rights abuses, putting Western leaders under pressure to not be seen as providing support to governments that violated human rights.

There were also new domestic political rewards for being seen as taking action on human rights, and with the process of decolonization mostly complete by this time, Western European states were far less vulnerable to criticism themselves.[89] This was reflected in the fact that the U.K. only began to accept the authority of the European human rights system to receive petitions from overseas territories in the late 1960s, after decolonization was nearing completion, while France did not even ratify the European Convention on Human Rights until 1974.[90] There were also a growing number of Western leaders and politicians that genuinely viewed human rights as an important policy goal. This was accompanied by a growing opinion among leaders and the public in the West that states' domestic human rights practices were a legitimate concern of the international community.[91] These changes in attitude did not only affect or come from the West, but Western governments themselves were especially responsive to pressure from their own public and to the large international NGOs that were able to use leverage politics to generate interest among Western audiences.[92]

It was at this time that Western states became involved with human rights enforcement, and the practice of using economic pressure to punish human rights violations and improve the domestic respect for human rights became a core component of this enforcement. In the United States, the war in Vietnam, the civil rights movement, an influx of refugees from Southeast Asia, the coming to light of the CIA's covert operations around the world, and disillusionment over the Watergate scandal had created conditions in which the U.S. public was especially receptive to the idea of human rights as a foreign policy goal.[93] Human rights also became incorporated in East-West Cold War politics, most importantly through the "third basket" of the Helsinki Accords, which were signed in 1975.

In the U.S., it was the legislature that first began to push for human rights in foreign policy. In 1973, Congressman Donald Fraser, the chair of the International Organizations and Movements subcommittee, began holding public hearings on violations of human rights in other states. In 1974, Congress began to pass increasingly restrictive legislation mandating that the U.S. withhold aid and trade to countries that engaged in a "consistent pattern of gross violations of internationally recognized human rights." They did this in order to force the hand of U.S. President Gerald Ford who, along with his Secretary of State Henry Kissinger, was uninterested

[87] For examples of the many works that have been produced on this, see Eckel and Moyn 2013, Moyn 2010, Eckel 2019, Lorenzini *et al* 2021, Mohandesi 2017, Morgan 2011, and Borstelmann 2013.
[88] Moyn 2010: 120-176; Forsythe and Wiseberg 1979: 4-5; Scoble and Wiseberg 1981
[89] Brier 2015: 162; Lowman 2022: 4
[90] Council of Europe 2022
[91] Sikkink 1993
[92] Keck and Sikkink 1998
[93] Bloomfield 1982: 3-4; Pflüger 1989: 706; Schmitz and Walker 2004

in incorporating human rights into U.S. foreign policy.[94] In 1975, Chile became the first country to have its security assistance cut off under the new legislation,[95] and in 1976, the U.S. voted against a development loan for human rights reasons for the first time, denying a loan to Chile.[96] In 1975, Ford established the Bureau of Human Rights and Humanitarian Affairs within the State Department in hopes that this would deter further congressional pressure.[97]

U.S. pressure on human rights expanded considerably once Jimmy Carter became president in 1977. Carter's administration embraced human rights as a foreign policy goal, and early in his presidency, the administration outlined a plan to use "the full range of its diplomatic tools" to encourage respect for human rights and punish violations.[98] Carter also encouraged cooperation among Western states on using economic measures to respond to human rights violations, including at the 1977 London Summit of the G7.[99]

After Ronald Reagan became president in 1981, it appeared that human rights might cease to be a significant factor in American foreign policy. Reagan had publicly renounced human rights as a component of U.S. foreign policy during his campaign, and after he took office, he appointed a Secretary of State who referred to human rights as "sissy…fancy pants stuff,"[100] along with an Assistant Secretary for Human Rights and Humanitarian Affairs who believed that human rights promotion was not the U.S.'s responsibility.[101] Yet, internally, the administration noted a belief that the public expected their foreign policies to be responsive to human rights, which they regarded as an American value.[102]

Reagan's administration found that they could effectively deploy human rights language towards Cold War goals by using it to target leftist rebel groups and to label left-wing totalitarian governments as qualitatively worse for human rights than right-wing authoritarians.[103] They did so by employing a framing of human rights, developed by Reagan's ambassador to the U.N. Jeanne Kirkpatrick, which distinguished between leftist "totalitarian" governments and right-leaning "authoritarian" governments. Kirkpatrick argued that authoritarian governments could evolve towards greater respect for human rights, whereas under totalitarian governments, there was no such possibility. This framework which justified differential targeting of human rights violations by leftist governments and rebel groups in line with the administration's Cold War policies.[104]

Similar shifts towards incorporating human rights into foreign policy appeared in Western European governments at this same time. The first states to make this shift were the United Kingdom, the Netherlands, and the Nordic countries.[105] Much of their interest came from the overthrow of Salvador Allende, the democratic socialist leader of Chile, in 1973. The military coup, which resulted in Allende's death, elicited an especially strong reaction from socialist governments and political parties throughout the world, with whom Allende had been

[94] Keys 2010; Weissbrodt 1977: 238-259
[95] Binder 1975
[96] Weissbrodt 1977: 259
[97] Keys 2010: 823
[98] *FRUS* 2013, Document 29; Presidential Directive NSC-30: Human Rights 1978
[99] *FRUS* 2013, Document 24; Kaufman 1998; Rowen 1977
[100] Weinraub 1982
[101] Jacoby 1986: 1066
[102] *FRUS* 2017, Document 54; Pflüger 1989: 711
[103] "Administration Said to Follow Double Standard on Human Right." 1982; Jacoby 1986: 1068; Kirkpatrick 1979
[104] Adesnik and McFaul 2006; *FRUS* 2017, Document 46; Jacoby 1986; Kirkpatrick 1979
[105] Eckel 2019: 190-242

extremely popular. Many European countries became heavily involved in the international response to Chile;[106] as did the Socialist International, an international party organization of socialist political parties, and the European Parliament, who came to see incorporating human rights as central to their "democratic legitimacy," and which became the main driver of the European Community's human rights policy,[107] including by calling for greater consideration of human rights in decision-making over development assistance.[108]

A major development in Western Europe's involvement in enforcing human rights occurred in 1977, following a burst of attention on the human rights abuses of Idi Amin's government in Uganda. Uganda was a major recipient of European aid through the Lomé Convention, an association agreement governing development assistance and preferential trade between the European Economic Community (EEC) and their former colonies, the African, Caribbean, and Pacific (ACP) states. The international attention on Uganda, a recipient of aid through Lomé, was an embarrassment to the EEC and its member governments. They responded by issuing the "Uganda Guidelines," which stated that any assistance going to Uganda through the Lomé Convention should "not in any way have as its effect a reinforcement or prolongation of the denial of basic human rights."[109] These guidelines were used to substantially reduce economic assistance to Uganda.[110]

Over the next two years, this policy was also applied to reduce or redirect assistance to the Central African Empire (now Republic), Equatorial Guinea, and Liberia, other states in which particularly extreme and attention-grabbing violations were taking place.[111] In June 1977, EEC states announced their intention to add human rights provisions to the Lomé convention during a scheduled round renegotiations,[112] and in November 1979, in spite of their failure to get human rights added to the treaty during these renegotiations, they passed an internal policy announcing their intention to apply human rights considerations anyway.[113]

Human rights became an increasingly relevant part of EEC external relations, especially as the European Parliament began to pressure on the other bodies of the EEC to take human rights seriously following their first direct elections in 1979.[114] In 1986, the European Community Foreign Ministers issued a formal policy statement on human rights, affirming them as an "important element" in the "development of their relations with non-member States as well as in the administration of aid."[115] They continued to push to add human rights language to Lomé, and in the second half of the 1980s, human rights became a common consideration in EEC decision-making.[116]

Over the course of a few short years, human rights were consolidated as a foreign policy concern of Western states, with an early emphasis was on violations of physical integrity rights, a category of rights that includes prohibition against torture and arbitrary killing and the right to *habeas corpus*. The European Community articulated that their policy would focus on the right

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[106] Kelly 2018: 94-133
[107] Arts 2000: 251; Boumans and Norbart 1989: l37; Kemps 1984
[108] European Parliament 1983a: 7-8
[109] King 1977: 55
[110] Fierro 2003: 45; Moravcsik 1995: 166
[111] Arts 2000: 324-325
[112] *Ibid*: 168
[113] European Commission 1979: 4; Young-Anawaty 1980: 94
[114] Arts 2000: 251; Boumans and Norbart 1989: l37
[115] Arts 2000: 119-120
[116] European Parliament 1993: 4; Kamminga 1989: 33; Marantis 1994: 7 n30

to life, security of the person, and the right to not be subjected to torture or cruel or inhuman treatment.[117] Similarly, U.S. legislation was focused on "gross violations" of human rights, which was interpreted to mean physical integrity rights,[118] and Jimmy Carter's administration outlined rights to "integrity of the person" as their highest priority.[119] This state-led pressure occurred alongside mounting pressure from transnational advocacy networks, who also focused on physical integrity rights early on and used leverage politics to encourage pressure in response to violations of this category of rights from Western states.[120]

As a result, international human rights, which had previously been confined to equal decision-making bodies of the U.N. and left to the Global South were increasingly incorporated into contexts in which the Global South was greatly disadvantaged in designing and implementing them, including IFIs, agreements on preferential trade and aid, and bilateral relations between Western states and the Global South. Violations of individuals' physical integrity rights by their own governments moved to the forefront of international human rights enforcement. Over the 1970s and 1980s, these priorities competed with and overtook the Global South's emphasis on international violations and responsibility, with Western states insisting that human rights pertained only to state authorities and their citizens within a domestic context.[121]

2.2. Enforcement as a challenge to self-determination over human rights

The new policies described above, which focused on violations within the Global South and utilized economic relations to promote human rights and punish violations, directly contradicted the Global South's own human rights priorities and beliefs. They also represented a challenge to the self-determination of states that were subject to them, greatly limiting their ability to domestically affirm international human rights policies and to meaningfully participate in their implementation. They effectively created a new set of human rights policies that were designed and implemented in contexts in which Western states had nearly complete control and then implemented in states in the Global South in ways that leveraged the latter's dependence and material weakness.

It was not just that Global South governments objected to economic conditions and pressures *per se*. In fact, some states were quietly supportive of the use of economic pressures against some of the most egregious violations of human rights. In some situations, governments from these regions have themselves called for the use of economic sanctions, as happened in response to human rights violations by the governments of Burundi, Somalia, Equatorial Guinea, Nigeria, and Zaire in the 1990s.[122] Rather, the problem was the way that economic sanctions were wielded, particularly their broad institutionalization in relations between developed and developing states and their implementation through forms of decision-making that were one-sided and did not allow for equal participation.

These policies diminished states' self-determination over human rights by taking the design and implementation of human rights policies—and even the question of whether they would be subject to these policies—completely out of the hands of the states that were subject to

[117] Alston 1980: 139; European Commission 1978b; Smits 1980: 51 n25
[118] Bloomfield 1982: 4; *FRUS* 2013, Documents 1, 54
[119] Bloomfield 1982: 2; *FRUS* 2013, Documents 1, 29, 16; Moore 1998: 196, 202-203; Schmitz and Walker 2004: 127
[120] Scoble and Wiseman 1981; Eckel 2019: 170-173
[121] Alston 1988; U.N. General Assembly 1986d: 56; U.N. Commission on Human Rights 1982
[122] Arts 2000: 281-282; Grauvogel 2015: 176-177

them. States were unable to domestically affirm these policies, which were developed by Western states and applied directly through coercion and threats. This included the lingering threat that continued positive relations required active demonstrations of their positive engagement with human rights, as they were defined by the West. Western states moved from applying policies in a more *ad hoc* manner, targeting individual states that were the worst violators, and towards incorporating policies broadly into their relations with all developing states. As they did, it created a set of policies to which all states that were recipients of aid or preferential trade access were effectively subject.

This new way of implementing human rights also diminished the ability of targeted states to meaningfully participate in the implementation of these human rights policies. Structural features of their relations made enforcement inherently one-sided—it could only be applied to recipient states by donor states. Western states wielded disproportionate control over decisions regarding aid disbursal and trade access. They were able to make decisions regarding reducing or rescinding economic cooperation without the input of recipient states and apply these decisions unilaterally to recipients of these benefits. Decision-making over these policies was effectively carried out within the enforcing states' domestic bureaucracies; in international organizations in which voting rules greatly disadvantaged target states, such as IFIs; in organizations in which these states were not even members, like the EEC; and within multilateral institutional settings like Lomé, in which the states that were providers of economic benefits held disproportionate control over access to these benefits.

For states that were dependent on these resources, they could not reasonably walk away from these organizations or relationships if they were unhappy with the terms. Edgard Pisani, the EEC Commission for Development, unintentionally articulated this underlying inequality when discussing the renegotiation of the Lomé Convention in 1983. Pisani stated that "[w]ithout Europe, the African, Caribbean and Pacific states would lose invaluable support; without the ACP states, Europe would lose the dimension it wants to have."[123]

These new pressures did not only affect states that were directly targeted. They also affected states that could recognize their vulnerability to these enforcement policies. Even states that supported human rights policies and enforcement, respected human rights domestically, and were run by democratic governments also became subject to these policies. As I show in the following chapters, these states collectively objected to the unilateral imposition of these policies, as well as to the way the policies were inherently one-sided, lacked transparency, and were unaccountable to them. They worried that the policies would be abused or used as a guise for interference for political reasons. Additionally, many regarded these policies as hypocritical and imperialist, carried out by states that had only recently relinquished their colonial control over the Global South, were viewed as complicit in *apartheid*, and were regarded as responsible for the ongoing inability to realize economic and social rights of people throughout the Global South.

Finally, they also objected to these policies on account of how they conflicted with their own human rights and foreign policy goals. This included their attempts to expand the definition of intervention and label acts of intervention as a violation of the right to self-determination, as well as their attempts to define development assistance as an *entitlement* of developed states and the withholding of development assistance as a violation of the right to development.

As I discuss in more detail in Chapters 6 and 7, in regions that were targeted by these policies, both opponents and proponents of human rights opposed and pushed back against them.

[123] European Commission 1983b: IX

During this time, states across the Global South supported U.N. resolutions condemning the use of economic conditions to enforce human rights. These included a 1979 resolution in the U.N. Commission on Human Rights (UNCHR) expressing "concern" that "human rights conditions are being imposed in bilateral and multilateral trade policies"[124] and a 1981 General Assembly declaration asserting that states have a "duty to refrain from the exploitation and the distortion of human rights issues as a means of interference in the internal affairs of states…or exerting pressure on other States."[125]

4. Conclusion

Prior to the 1970s, much of international human rights advocacy, especially within the U.N., was consistent with non-interference. It looked to expand the capacity of the state, increase the effective exercise of sovereignty, and challenge the economic and political dominance of the West. The new enforcement policies that appeared in the 1970s represented a significant departure from this. These policies directly contradicted important priorities of states in the Global South, and they represented a challenge to the self-determination of states that were subject to them. In fact, the widespread use of economic pressures and sanctions was viewed as itself a violation of both the right to self-determination and the right to development.

However, these policies were not pursued everywhere. As I discuss in the next chapter, they affected regions that were overall of less political importance to Western governments, where there were more opportunities for applying these policies, and where there was a higher likelihood of success. This meant that Latin America and Africa were targeted, while the Middle East and Southeast Asia were not. It was at this time that a clear divide opened up in attitudes towards the norm of non-interference across these regions. Regions subject to these policies began to compromise on this norm in an effort to establish their regional organizations as authorities over human rights. This push for regionalization of human rights responded to challenges to their self-determination, and they represented an attempt to marshal regional approaches as a way of confronting and managing these challenges. Regions that did not experience these pressures maintained their previous stance on non-interference.

[124] U.N. Commission on Human Rights 1979: 108-109; Alston 1982: 167 n58.
[125] U.N. General Assembly 1981a: II(l)

Chapter 5. Regional Pressures, Regional Responses

The challenges to states' self-determination described in the previous chapter, which consisted of the use of economic relations between the West and Global South to enforce human rights, unfolded unevenly across regions. Western states widely applied and institutionalized these policies in regions in Africa and Latin America, where doing so would not conflict with their other political and economic priorities, where they had existing forms of leverage, and where there was a higher likelihood of success. In those regions, states responded collectively by creating, accepting, and expanding human rights mechanisms within their regional organizations. By contrast, states in Middle East and Southeast Asia, which also had prominent regional organizations at the time, were not subject to this kind of sustained economic and political pressure. States in these regions maintained their previous attitude towards non-interference, in spite of the fact that, as I discuss in Chapter 8, states in the Middle East had made *more* moves towards regional institutionalization of human rights than Africa prior to this point.

As I discuss more below, a great deal of existing research has argued and provided empirical evidence to show that powerful states often subsume normative concerns to geopolitical interests when deciding on things like foreign aid allocation. What I focus on establishing here is that these decisions, and the patterns whereby normative issues are subsumed to political concerns, vary systematically by region. Rather than governments deciding on a state-by-state basis whether to incorporate human rights into their foreign relations, they tend to treat regions as systems in which they prioritize certain issues or goals and deprioritize others.

This builds off of the theoretical and empirical work of the previous two chapters. In Chapter 3, I theorized that one important reason that states pursued a regional approach to responding to challenges to self-determination was that the pressures experienced by states varied by region. One reason for this is that important institutions like foreign policy bureaucracies, NGOs, and international organizations organize their work and understand issues regionally. As a result, regions tend to be viewed as a single, connected system, and decisions about whether or how to incorporate human rights into policy decisions tend to be affected by the broader priorities, strategies, and understandings employed for the region. In Chapter 4, I laid out what the pressure from Western states looked like and how it represented a challenge to states' self-determination. In this chapter, I begin to assess evidence for the observable implications developed in Chapter 3 and laid out in Table 3.1. I look first at the observable implication that these pressures will vary by region (*regional discrimination*). I then begin to examine evidence for the observable implication that timing of the onset of pressures challenging self-determination will align with the timing of the creation of these regional mechanisms and whether or not they were targeted for enforcement (*timing of creating, accepting, and expanding regional mechanisms*).

As I develop here, it is in part because the widespread institutionalization of these policies varied by region that states responded with regional approaches. In regions that became subject to these policies, the policies' emergence led states to expect enforcement even when they were not individually singled out. It also resulted in states that were not violating human rights, and that supported human rights enforcement, being made subject to these policies. This encouraged states that both did and did not support human rights to work together to respond to these policies. By contrast, in regions that were not targeted, state expectations stayed the same, and they maintained the status quo with respect to the norm of non-interference. In fact, one

reason that the United Nations was not a useful forum for responding to these pressures was that the pressures divided what was otherwise a tight coalition of Global South states within U.N. human rights bodies. Those states in regions that were *not* targeted by these policies were not interested in compromising on non-interference either within their regional organizations or the U.N.

To illustrate cross-regional dynamics in the timing of delegation of authority, I use new data that I have coded on the design of regional mechanisms. I look at the broad cross-regional patterns of delegation of authority to establish the divergence across regions, and I show that this divergence appeared following these external policies. The divergent trajectories of pressure from Western governments are also associated with a sharp split in delegation patterns between regions that were subject to these pressures and those that were not.

1. Regional discrimination and uneven human rights enforcement

In this section, I show that Western states systematically organized their human rights foreign policies by region, pursuing more costly and extensive forms of human rights enforcement in some regions while subsuming human rights to other priorities in others. The decision of how to pursue human rights in relations with different parts of the world was influenced by the relative geostrategic importance of potential target states and whether there were tools available for successfully enforcing them, such as economic assistance or one-sided reliance on preferential market access. However, rather than making these decisions for states on an individual, state-by-state basis, existing institutions and internal decision-making processes of Western states led to differential targeting that varied by region.

1.1. Human rights, geopolitics, and uneven enforcement

States are more likely to use costly human rights enforcement measures like economic sanctions and trade boycotts where doing so is likely to be successful and less likely to interfere with other important foreign policy or national security goals. This is true even for those that are the most committed to human rights. Leaders of these states face pressures to show that their efforts at promoting human rights are producing positive results, pushback from within their foreign policy bureaucracy, and constituents that will have limited patience for global human rights policies if they feel that they come at the expense of their own economic well-being and national security.

In fact, existing research provides extensive evidence demonstrating that states tend to subsume normative concerns to strategic and economic concerns in foreign policy decision-making.[1] For example, Grigoryan demonstrates that rhetorical support for the spread of liberalism and democracy by Western governments often masks the fact that foreign policy decisions are influenced to a substantial degree by straightforward geopolitical motives.[2] Nielson finds evidence that donors impose sanctions in response to human rights violations under three conditions: that the recipient state does not have close political ties to the donor state, the violations have negative consequences for the donor state, and violations are widely publicized.[3]

[1] Chayes and Chayes 1995: 106-107; Dunning 2004; Krasner 1999
[2] Grigoryan 2020
[3] Neilson 2013

Dietrich and Murdie find that human rights influence aid allocation decisions for minor powers, while for major powers, aid decisions remain subject to realist concerns.[4]

International NGOs and human rights activists have observed with dismay this tendency for Western states to ignore or downplay human rights where doing so serves their foreign policy interests. In a 1994 report, Amnesty International alleged that throughout the Cold War, Western governments "found it expedient to ignore clear evidence of systematic human rights violations" for states of "strategic importance."[5] Aryeh Neier, the co-founder of Human Rights Watch, complained in 1996 of a "double standard" that persisted following the end of the Cold War, where politically important countries tended to be excluded from U.S. human rights criticism.[6]

In general, research looking at statistical patterns of Western aid allocation fails to find that economic or security assistance consistently rewards good human rights records or punishes governments that abuse human rights. A number find evidence of geopolitical considerations taking precedence over human rights considerations.[7] Some even find that aid seems to go to countries with worse human rights records, though they do not suggest or find evidence that their poor human rights records are the cause of receiving more aid.[8] Where there does seem to be a relationship between human rights and foreign assistance, it tends to be qualified,[9] with studies finding evidence that human rights have some effect on whether or not a state receives aid, but once a state is an aid recipient, they do not affect how much a state receives.[10]

This general pattern of failing to consistently match rhetoric with their foreign assistance was no less the case for Jimmy Carter's administration in the late 1970s, whose prioritizing of human rights as a matter of foreign policy makes it a least likely case of this pattern emerging.[11] As noted by Carter's Director of Global Issues on the National Security Council, this was, in large part, the result of an attempt to be pragmatic in pursuit of human rights.[12] As early as March 1977, just months after Carter took office, his Director of Policy Planning for the State Department Anthony Lake clarified in classified documentation that the U.S. government's human rights policy would "inevitably focus on some nations more than others." Their decision-making surrounding human rights would involve "weighing those cases where US action on human rights *per se* could endanger other objectives (such as disarmament) which, in fact, serve or complement the cause of human rights." In general, Lake concluded that there was a need to "limit engagement on human rights with economically or political important governments in order to maintain the cooperation of these governments on 'vital' interests."[13] These kinds of references to the need to balance human rights with other interests were quite common.[14]

This pragmatism manifested in the execution of their foreign policy. Human rights enforcement tended to target countries of low geopolitical importance and where there was greater likelihood of success. In a 1978 memorandum from Lake to Cyrus Vance, Carter's

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[4] Dietrich and Murdie 2017
[5] Amnesty International 1994: 9-10
[6] Neier 1996
[7] Alesina and Dollar 2000; Dietrich and Murdie 2017; Dunning 2004; Lebovic 1988; Lebovic and Voeten 2009; Nielson 2013; Poe 1991
[8] Carleton and Stohl 1985; Neumayer 2003a; Sandholz 2016
[9] Apodaca and Stohl 1999; Neumayer 2003b
[10] Blanton 2000; Cingranelli and Pasquarello 1985; Neumayer 2003a; Poe 1991
[11] Carleton and Stohl 1985; Kaufman 1998
[12] Bloomfield 1982. For similar assessments on the pragmatism of the Carter administration's approach, see Kaufman 1998; Pflüger 1989: 709; Rubner 2011: 186; Schmitz and Walker 2004: 114-115.
[13] *FRUS* 2013, Document 29
[14] Kaufmann 1998; Rubner 2011: 186; Schmitz and Walker 2004: 124

Secretary of State, Lake explained that "political factors" had led the U.S. to be "softer" on some countries. He elaborated that:

> "We sometimes seem to be 'punishing' countries which don't matter very much to our security or economic interests…while glossing over the human rights record of some who do…when the charge is true, it sometimes is for the good reason that our human rights concerns are being kept in context with other important national interests, or that we are concentrating on countries where we have some hope of being effective (i.e., recipients of our aid) rather than posturing toward, for instance, [China]."[15]

By contrast, Lake noted that "with some [countries],…our bilateral interests are so modest that our prime interest is human rights."[16] This way of strategically incorporating human rights into foreign policy decision-making was just as important when Ronald Reagan was president. Though Reagan had campaigned against making human rights a matter of U.S. foreign policy, internal documents made clear that the administration's position was that the American public wanted to see a clear moral component to their foreign policy.[17] At the same time, internal planning documents suggested that "it would be tragic if, in the name of human rights, we were to refuse vital assistance to an ally in grave danger."[18] The administration emphasized that their approach would prioritize "effectiveness," which involved using different, less antagonistic approaches to what they regarded as "friendly" governments.[19]

Though the U.S. quickly emerged as the single most important country in pushing human rights as a foreign policy goal, this type of balancing also factored into decision-making by European governments. For example, under the British Labour government, which came to power in the United Kingdom in 1974 on a platform of promoting human rights, Foreign Secretary David Owen clarified that the government would need to "balance morality with reality" in pursuing these goals.[20]

1.2. Uneven enforcement by region

The way that human rights were pursued in the foreign policies of Western governments did not follow a logic of simply targeting individual, unimportant states. Instead, decision-making was mediated by region.[21] Human rights are more costly and difficult for Western governments to pursue in regions where there are other pressing foreign policy or national security concerns, or where they have fewer points of leverage. This tended to result in a downplaying or de-emphasizing of human rights. In regions where there were fewer competing priorities and greater leverage, human rights tended to become a more integral part of regional policies and programming. Individual state attributes still matter—in other words, it still mattered whether a state in a less politically important region had important natural resource reserves or was a Cold

[15] *FRUS* 2013, Document 105
[16] *Ibid*
[17] *FRUS* 2017, Document 58
[18] *Ibid*, Document 46
[19] *Ibid*, Document 58
[20] Rubner 2011: 196
[21] Though Derouen and Heo (2004) do not posit an explanation for why aid donors would organize their foreign policies by region, they find evidence that foreign policy similarity results in states receiving more aid in Latin America and Africa, but not in the Middle East or Asia.

War ally—but the overall importance of the region played an important role in determining the degree to which human rights factored into their relations with that region in the first place. In regions where human rights are added to the regional priorities or programming, even relatively important countries had to contend with and respond to human rights expectations.

An example of this was Argentina, which was an important trade partner and Cold War ally of the United States, but which, as a Latin American state, was nevertheless targeted extensively with economic pressures aimed at altering its human rights practices. In August 1978, a member of Carter's National Security Council noted with consternation that he was "absolutely astounded by the sheer quantity of trade" that was being embargoed against Argentina.[22] The fact that Argentina is located in Latin America, one of the regions in which U.S. officials were able to pursue an aggressive human rights policy, was an important reason that human rights became a significant factor in their relations with the U.S., despite their relative strategic and economic importance.

There are good reasons for governments to organize human rights enforcement by region. Governments tend to conceptualize of regions as systems when designing their foreign policies. As discussed in Chapter 3, foreign policy bureaucracies are themselves organized by region. This produces knowledge that privileges regional understandings of issues. In part because of this, problems tend to present themselves regionally, with the buy-in and cooperation of neighboring states affecting the ability to pursue priorities in adjacent states. Accordingly, decisions about whether and how to incorporate human rights into foreign policy decisions were taken with the region in mind.

As a result, these pressures tended to be organized by region, with regional variation in the consistent and widespread use of economic conditions to pressure states on their human rights. This logic relates to Levitsky and Way's influential findings that the West's efforts at democracy promotion have been most successful when targeted at states with which the West has both high levels of "linkages" and "leverage." Linkages refer to target states' density of economic, social, political diplomatic, and organizational ties and the extent of cross-border flows with the West, while leverage refers to whether a target state's weakness or the nature of their relations makes them vulnerable to the West's conditionality, sanctions, military force, and diplomatic persuasion. Levitsky and Way note that linkage and leverage vary by region, and they find that it is only in regions where both linkages and leverage are present (they identify Latin America and Eastern and Central Europe) that Western democratizing pressure has succeeded in bringing about reforms.[23]

The focus of their study is the effectiveness of pressure to democratize, not on predicting which regions will experience these pressures. Nevertheless, Levitsky and Way acknowledge that Western leaders have employed leverage inconsistently to engage with normative issues in their foreign policy, and that linkage can reduce leverage by "placing competing bilateral issues" on their agendas.[24] States with high levels of linkage with the West may be less likely to be targeted for pressure if these linkages involved economic interests or alliances that were important to Western states.

At the time that human rights were emerging as an important piece of their foreign policy, the United States and Western Europe faced similar constraints in the design of their foreign policies, including the massive increase in oil prices, a global recession, and Cold War

[22] *FRUS* 2018b, Document 89
[23] Levitsky and Way 2006
[24] *Ibid* 2006: 383, 386

considerations. They faced similar opportunities, in the form of the regions in which they had substantial leverage and pre-existing relations that were deeply institutionalized. Finally, they had similar foreign policy goals, including establishing peace in the Middle East, maintaining access to oil, and containing communism.

As a result, they developed patterns of enforcement that placed emphasis on human rights in Latin America and Africa. These regions were more aid dependent, less important trade partners, and less geopolitically important. As a result, there were more opportunities and fewer costs for the U.S. and Western European states to incorporate human rights into their foreign policies. These regions both came to be disproportionately targeted with costly enforcement measures like reduction in economic and security assistance and trade boycotts, as well as attempts to institutionalize human rights into their economic relations. In the Middle East and Southeast Asia, Western governments consistently overlooked and even actively downplayed human rights violations.

1.3. Evidence of regional discrimination

There is significant evidence that Western governments' human rights enforcement pressures varied by region, and that planning for foreign policies was actively structured across regional lines. It was evident in the U.S.'s strategic planning under Carter. In 1977, during the early planning process for their human rights policy, internal documents specified the need to develop a "strategy and detailed plans to implement a more vigorous national policy to advance human rights around the world, *including special implementing strategies for each geographic region to take common regional factors into account*."[25] Many internal planning documents noted "regional factors" and outlined policy planning approaches by region.[26] In the 1978 memo from Anthony Lake discussed in the previous section, Lake reflected on the U.S.'s record of promoting human rights up to that point. He acknowledged that their differential targeting had resulted in "r]egional discrimination." As Lake noted, in Africa and Latin America, "promotion of human rights is our chief interest," with the U.S.'s "security and economic stake…less than in East Asia or the Middle East."[27] These latter regions were spared more extensive or punitive forms of pressure due to competing priorities that were regarded as more important, and foreign policy towards these regions developed in ways that emphasized other issues and that engaged with human rights using means other than economic pressure, such as public statements and private conversations with leaders about reforms.

The foreign policies of Western European governments followed a similar regional trajectory. Within the European Community, human rights entered into their foreign policy first with respect to non-EEC European governments, first Spain, Portugal, and Greece, and then Eastern Europe with the Helsinki Process.[28] In the 1970s, their human rights policies expanded into Latin America following the events in Chile in 1973. This was enabled by the fact that, in Latin America, they historically had few ties and, thus, few competing interests.[29] This was followed by a move to incorporate human rights into the Lomé Convention, beginning in 1977,

[25] Schmitz and Walker 2004: 123. Emphasis mine.
[26] For examples, see *FRUS* 2013, Documents 9, 25, 42, 60, 62, 105
[27] *FRUS* 2013, Document 105
[28] Lorenzini *et al* 2010: 6
[29] Beti 1981

which organized their economic relations with African, the Caribbean, and Pacific island states. Lomé offered them extensive leverage and a clear opportunity for incorporating human rights.[30]

1.3.1. Latin America

Latin America emerged as the first and most intense target for international attention and enforcement in the aftermath of the overthrow of Salvador Allende's regime in 1973. This was, in part, the product of media attention and transnational advocacy, which was disproportionately focused on Latin America after the fall of Allende.[31] However, just as important was the fact that Latin America was, in the words of Anthony Lake, "the best theater for [U.S.] human rights activity, at little risk to other…interests." According to Lake, the U.S. had "a good deal of leverage" in Latin America, while they saw Latin American governments as "ideologically disinclined to turn to Moscow."[32] This latter point meant that the U.S. did not need to worry that they would push Latin American states to the point where they would switch their Cold War alignment. In another memo, an unnamed official from the State Department was said to have "expressed particular concern that Latin America is being singled out because there are so few conflicting US interests and the decision therefore seems so easy."[33]

In 1974, largely in response to Chile, the U.S. Congress began to pass new legislation restricting security and economic assistance to states with a "consistent pattern of gross violations of internationally recognized human rights."[34] In 1975, Chile became the first country to have its security assistance cut off under the new legislation,[35] and in 1976, the U.S. voted against a development loan for human rights reasons for the first time, against a loan for Chile.[36]

This pressure expanded when Jimmy Carter became president, but with a focus still on Latin America. At the meeting of the General Assembly of the Organization of American States in June 1977, Secretary of State Cyrus Vance announced the U.S.'s intention to link human rights with regional aid,[37] and the U.S. broached the issue of human rights at an Inter-American Development Bank meeting that same month.[38] By 1978, U.S. assistance had been restricted to Argentina, Brazil, Uruguay, Nicaragua, and El Salvador,[39] and the U.S. enacted new trade barriers with a number of these countries.[40] They also interfered with transactions between Latin American states and other countries, including trying to disrupt a Brazilian purchase of a nuclear reprocessing plant from West Germany and stopping a purchase of planes by Ecuador.[41] As I discuss more in Chapter 6, beginning in 1974, Latin America was also singled out for enforcement within the United Nations by a coalition of Soviet, non-aligned, and Western and Northern European states.

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[30] Arts 2000; Young-Anawaty 1980
[31] Hafner-Burton and Ron 2013; Kelly 2013b: 165
[32] *FRUS* 2013, Document 105
[33] *Ibid*, Document 7
[34] Weissbrodt 1977: 238-259
[35] Binder 1975
[36] Weissbrodt 1977: 259
[37] U.S. House of Representatives 1977
[38] "Kidnapping mars IDB meeting" 1977
[39] *FRUS* 2013, Document 62
[40] Benham 1977
[41] *Ibid*

Early on, Western and Northern European states also showed outsized attention to Latin America. Because the U.S. had claimed the Western hemisphere as its sphere of influence with the 1823 Monroe Doctrine, European relations with Latin America were much more limited, and one effect of this was that European states faced fewer countervailing political concerns in pursuing human rights in the region.[42] European politicians joined "solidarity groups," which investigated and lobbied support against the Chilean government's human rights practices.[43] They widened their attention to other states in the region, including other Southern Cone countries and the governments of Nicaragua and El Salvador. Western European governments reduced economic assistance, voted against loans in IFIs,[44] refused to reschedule existing debts,[45] reduced or severed diplomatic ties,[46] and provided support and legitimation to domestic opposition movements of repressive leaders.[47]

1.3.2. Africa

There was a similar targeting of non-*apartheid* Africa as in Latin America, although there were several years of delay in the expansion of these policies to the region. For the U.S., the fact the government had few interests in Africa initially resulted in less human rights attention.[48] A declassified 1977 memo from an official in the U.S. State Department noted that "Congress still has a certain myopia as far as African human rights are concerned, and this has protected Africa from the sort of attack faced in Latin America."[49] This changed beginning in 1978, after Amnesty International released reports of the execution of an archbishop and two former government ministers in Uganda under Idi Amin. This, alongside Amin's targeting of Americans living in Uganda, drew a swift reaction from the West.[50]

At this point, a lack of countervailing interests left U.S. policymakers relatively free to prioritize human rights over other issues in Africa. Aid and trade was blocked to Uganda in 1978.[51] Aid was suspended to the Central African Republic in 1978 and to Mozambique, Angola, Zambia, and Tanzania in 1979. Among African countries, there is evidence that the U.S. tended to give special attention to human rights violations in socialist countries, with Ethiopia, Guinea, and Somalia all experiencing aid reductions or receiving negative votes from the U.S. on development loans early in the Carter administration.[52]

Because of former colonial ties, Western European governments had far more leverage and pre-existing interests in Africa. Europe was one of the largest sources of development assistance for the region and the most important market for the continent's commodity exports. Their relationship with African states was institutionalized in the Lomé Convention (Lomé), an association agreement governing the European Economic Community's preferential trade and development assistance for their former colonies, known collectively as the African, Caribbean,

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[42] Beti 1981
[43] Kelly 2013b: 178
[44] *FRUS* 2013, Document 4, 105; Vogelgesang 1978: 824
[45] "Economic measures set" 1975
[46] "The British Cabinet's 'New Approach' to Chile" 1979; "U.S. Cuts Back Ties" 1979; Young-Anawaty 1980: 72
[47] Tomayo 1981
[48] Rubner 2011: 189-194; By contrast, *apartheid* Africa received attention from the public and the U.S. Congress.
[49] *FRUS* 2013, Document 62
[50] Gertzel 1980: 464; Oberdorfer 1977
[51] Fredman 1979; Rubner 2011: 196
[52] *FRUS* 2013, Document 53, 105; Rubner 2011: 187

and Pacific (ACP) states. Of these, African states made up a large majority, representing 47 out of 56 ACP states as of 1978. Because of Lomé, the EEC's relationship with Africa was far more extensive and institutionalized than their relations with other parts of the Global South, providing both opportunity and leverage for enforcing human rights.

There was also greater emphasis on Africa from individual European governments. For the United Kingdom under the pro-human rights Labour government of the latter half of the 1970s, their primary emphasis regarding human rights was on Uganda and attempting to add human rights to the Lomé Convention.[53] Because of their relationship with Uganda as the former colonial power, the situation in Uganda elicited attention from the U.K. earlier than other countries, with Britain breaking off diplomatic relations with Uganda in 1976.[54] When David Owen became Foreign Secretary of the U.K. in 1977, he further increased the country's attention to human rights.[55] Under the British presidency of the EEC in 1977, the British government worked to make human rights a part of the convention.[56] It was under their presidency and at their initiative that the proposal for incorporating human rights into Lomé was made.[57]

France, by contrast, was initially less inclined to add human rights to their foreign policy. However, in 1979, Amnesty International released a report detailing the mass killing of children in the Central African Empire in which the dictator, Jean-Bédel Bokassa was alleged to have been personally involved. France was a major patron of the Bokassa and then-president Valéry Giscard d'Estaing was known to be a personal friend of Bokassa's. In response the international outcry over the report, the French government cut off assistance and provided support to a coup that overthrew Bokassa.[58]

The existence of Lomé and the leverage it provided over African states provided a clear path to incorporating human rights into their foreign policy. Following the 1977 reports on Uganda, members of the EEC issued the "Uganda Guidelines," stating that they would "take steps within the framework of [their] relationship with Uganda under the Lomé Convention to ensure that any assistance…does not in any way have as its effect a reinforcement or prolongation of the denial of basic human rights."[59] Aid to Uganda was substantially reduced, and the aid that continued was redirected to ensure it went to only humanitarian causes.[60] They applied the same guidelines to Equatorial Guinea in 1978, in January and April 1979, to the Central African Empire, and in 1980 to Liberia.[61]

1.3.3. The Middle East

By contrast, for both the United States and Western European countries in their relations with the Middle East, human rights were subsumed to other foreign policy priorities. Throughout the Cold War, the Middle East was a strategically important theater for superpower rivalry, with the Soviet Union and the United States both supporting and propping up different repressive

[53] Rubner 2011: 198
[54] Lowman 2022: 13
[55] Grealy 2022b; Lowman 2013: 14-15
[56] Grealy 2022a: 125
[57] *Ibid*: 129
[58] "Papa Bok is a millstone to France" 1979; "Vive la France?" 1979; Welch 1981: 406-408
[59] King 1997: 55
[60] Fierro 2003: 45; Moravcsik 1995: 166
[61] Arts 2000: 324-325, 423

authoritarian governments.[62] Its importance was illustrated by the attempts of the U.S. and the United Kingdom to create a NATO-style security pact in the region in the 1950s to consolidate their interests in the region, though the pact received little support and some strong resistance from Middle Eastern states.[63]

In the 1970s, at the very moment when human rights were being taken into consideration in Western states' foreign policies, a number of major global events made the Middle East an especially unattractive target for attempting to enforce human rights using costlier tools. The 1973 Yom Kippur war, in which a coalition of Arab states was defeated by Israel, and the subsequent OPEC oil boycott, which the Arab members of OPEC organized to punish supporters of Israel, made Middle Eastern peace and retaining access to Middle Eastern oil priorities for both Europe and the United States. There was also an increase in terrorism originating from the Middle East with which European states, in particular, were preoccupied.[64]

Jimmy Carter, in particular, made achieving peace in the Middle East a centerpiece of his administration's foreign policy.[65] Anthony Lake noted in 1978 with respect to U.S. human rights policy that "our desire to move Arabs and Israelis toward a peace settlement and the importance of Mideast oil have kept arms sales high."[66] Also speaking about the Middle East, he noted that: "we have not put primary emphasis on human rights considerations, in view of our other pressing interests, when deciding on arms sales or determining our approach to the area generally."[67] This was exacerbated when, in 1979, the overthrow of the Shah of Iran resulted in another jump in oil prices and the loss of a reliable U.S. ally and friendly source of Middle Eastern oil.[68]

The increase in countervailing costs for pursuing human rights in their foreign policy with the Middle East was coupled with a diminishing level of vulnerability of states in the region, as the wealth of some states in the region increased by as much as 1,000 percent over the course of the 1960s and 1970s.[69] Anthony Lake noted that, among Middle Eastern states, "few of them are recipients of our economic assistance," eliminating one important source of leverage.[70] Together, these factors made the region far less vulnerable to economic pressures and far less attractive targets for Western governments to pursue human rights.

Western European states were similarly dependent on Middle Eastern oil and had become increasingly concerned with terrorism in the region.[71] In Western Europe, in the 1970s, the EEC initiated efforts to create a Lomé-style system with what they referred to as the "Mediterranean Group," which consisted of southern Europe, the Middle East, and North Africa. However, this policy never got off the ground, due in part to the bargaining power that their control of oil provided them. In a separate initiative, 1974 saw the beginning of the Euro-Arab Dialogue between the EEC and the Arab League, which was intended to establish political cooperation between the groups, though it ended up focusing only on discussions of economic development, and Arab states abandoned it in 1979.[72] In both of these forums, human rights never entered into

[62] Baxter and Akbarzadeh 2012; Jamal 2012; Khalidi 2009: 9-21; Sneh 2008
[63] Podeh 1996
[64] Bicchi 2002
[65] Schmitz and Walker 2004: 128; Sneh 2008
[66] *FRUS* 2013, Document 105
[67] *Ibid*
[68] Jones 2012; Sneh 2008: 171, 178
[69] Alnasrawi 1987; Owen 1981
[70] *FRUS* 2013, Document 105
[71] Bicchi 2002
[72] Albinyana and Fernández 2018

discussions, even while the EEC was simultaneously pushing for the incorporation of human rights into Lomé.[73] I discuss the lack of attention to human rights in the Middle East by both the U.S. and Western Europe in more detail in Chapter 8.

1.3.4. Southeast Asia

Similar patterns appeared with respect to human rights enforcement by the West in Southeast Asia. As a region, Southeast Asia underwent substantial economic development during the 1970s, growing faster than any other region in the Global South.[74] At this time, Southeast Asian countries were starting to become important markets for Western exports.[75] There were also a number of overriding national security considerations for Western states. Western states saw the threat of Southeast Asia falling to communism as of particular concern, a fact which motivated a great deal of strategic activity and intervention in the region. Most important was the U.S. intervention in Vietnam.[76] These concerns also led the U.S. and Britain to establish a security pact with Southeast Asian countries, similar to the one pursued in the Middle East. This pact, the South East Asian Treaty Organization, or SEATO, was concluded in 1954, though only Thailand and the Philippines joined it.[77] In the immediate aftermath of a communist government coming to power in Vietnam in 1975, the U.S. was concerned about the possibility for expanded Soviet influence in the region and prioritized maintaining its allies.[78]

There were especially egregious human rights violations committed in a number of states in the region during the 1970s, namely the Philippines under Ferdinand Marcos, Indonesia under Sukarno, and Cambodia under Pol Pot. In the Philippines, Ferdinand Marcos's government suppressed dissent and engaging in a brutal counterinsurgency, while in Indonesia, Sukarno violently suppressed an independence movement in East Timor. In Cambodia, the notorious Khmer Rouge regime under Pol Pot was responsible for killing millions of people in what is often described as a genocide.

Strategic considerations led the U.S. and Western Europe to underplay human rights violations in each of these countries.[79] In fact, Anthony Lake suggested that the "greatest risk to other US interests from the human rights policy may be in East Asia."[80] In the Philippines, the U.S.'s military base, an important access point to the region, was coming up for renegotiation, and the U.S. deliberately downplayed human rights issues in that country in order to facilitate the negotiations.[81] In Indonesia, the U.S. consistently sought closer ties because of Indonesia's growing economic importance and its role as a consistent opponent of communism in the region.[82] They responded to reports of massive violations of human rights in East Timor by asserting publicly that the reports were "greatly exaggerated" and attempting to downplay the violations to Congress.[83] In a telegram to the U.S. embassy in Jakarta, the State Department

[73] Albinyana and Fernández 2018; Tsoukalis 1977; de la Serre 1980
[74] Phung *et al* 2014
[75] Hurst 1997: 84
[76] Buszynski 1981: 287
[77] *Ibid*: 287
[78] Adesnik and McFaul 2006: 12-13; Hawes 1986: 20-22
[79] Adesnik and McFaul 2006: 9; Kaufmann 1998
[80] *FRUS* 2013, Document 105
[81] *FRUS* 2013, Document 105; Hawes 1986: 20-21
[82] Simpson 2009: 798-799; Simpson 2019
[83] Simpson 2009: 806, 809

provided suggestions for how Indonesia could improve its image and "deflect UN interest."[84] Where the U.S. engaged with human rights, it tended towards forms of engagement aimed at nudging countries towards reforms such as quiet, behind the scenes pressure, the use of public statements, or support for resolutions in international organizations.[85]

Cambodia is a good example of a state that was not individually important, but for which human rights were de-emphasized on account of larger regional concerns, chiefly opposing Soviet influence in the region. Carter's administration was well aware of the extent of the violations taking place in Cambodia under Pol Pot and the Khmer Rouge. His administration was frequently criticized by Congress for its lack of attention to the problem and pressured to take stronger action. Yet, this pressure had little effect. The Khmer Rouge were eventually driven from power by the Vietnamese government in December 1978, to which the U.S. government responded by condemning the intervention, exerting pressure to get Vietnam out of Cambodia, and supporting a Chinese invasion of Vietnam in 1979.[86]

Their efforts to keep human rights issues from interfering with their relations with Asian states was captured in the preparation of the annual U.S. State Department human rights reports. In discussing the preparation of the reports one year, a member of the National Security Council noted "striking inconsistencies" between the reports of different countries. The official suggested that these derived, in part, from the "political importance of the country to the U.S." The memo noted that:

> "[T]he problems between competing interests were solved by balancing every negative statement with a positive statement, resulting, particularly in the East Asian reports (Korea, Philippines and Indonesia) in extraordinary length."[87]

Similarly, relations between European states and Southeast Asian states, especially as conducted through the EEC, included almost no discussion of human rights. There was interest from Europe in increasing trade between the two regions, with ASEAN believed to be a good and underexploited market.[88] Over the course of the 1970s, there were many moves to institutionalize relations between the two regions. In 1972, they established the Special Coordinating Committee of ASEAN Nations in 1972 to coordinate and enhance trade, along with the ASEAN Brussels Committee that same year. In subsequent years, they expanded the forums in which they engaged with one another, including regularized EC-ASEAN Ministerial Meetings.[89] In 1980, the EEC signed the Cooperation Agreement between Member Countries of ASEAN and the European Community, and neither negotiations nor the final agreement included any discussion of human rights.[90] European governments did not introduce human rights into their relations with the region until after the Cold War.[91] Even then, European engagement continued to be limited by their own geopolitical concerns.[92]

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[84] *Ibid*: 807
[85] Adesnik and McFaul 2006; Burns 1982: 101
[86] Clymer 2003: 248-257
[87] *FRUS* 2013, Document 180
[88] European Commission 1979
[89] Doidge 2004: 46
[90] Association of Southeast Asian Nations 1980; European Commission 1980b: 101-104
[91] Wang 2012
[92] *Ibid*: 19-20

The main exception was the support offered by the EEC to the new, democratic government of the Philippines, which came to power through the People's Power Revolution in 1986. However, this support was offered only after the revolution was complete and the former dictator, Marcos, was out of power.[93] Another exception was the introduction of human rights into dialogue between the European Parliament and the ASEAN Inter-Parliamentary Organization, though the latter was not created by ASEAN governments or affiliated with ASEAN.

2. Regional responses

The onset of these policies had a substantial effect on the regions that experienced them. States are not blind to the patterns that external pressures follow, including where these pressures follow a regional logic. In Africa, this pattern was explicit and overt because an important source of human rights pressure came in the form of attempts by European states to add a human rights suspension clause to the Lomé Convention. In Latin America, there was no single institution or program used to establish human rights in economic relations, but U.S. officials repeatedly emphasized their human rights policy within the Organization of American States. For example, in 1977, Cyrus Vance announced at the O.A.S. General Assembly that they would be incorporating human rights into aid decisions within the region.[94] Additionally, early tours of the region by U.S. Ambassador to the United Nations Andrew Young, in the Caribbean, and throughout Latin America by First Lady Rosalynn Carter deliberately emphasized human rights.[95]

This ability to observe regional patterns in targeting is important because the decision to amend the mandate of a regional organization is inherently a collective decision, and the fact that these challenges to their self-determination took on a regional form encouraged regional responses. For regions that were exposed to these pressures, all states in the region effectively became subject to these new policies. For states that were violating human rights, it increased the perceived likelihood that they would be targeted with costly forms of enforcement. For states that were not themselves engaging in the kinds of behaviors that would likely attract human rights enforcement, including states in which leaders also wanted to see improvements in human rights, they nevertheless became subject to these policies. Their self-determination was challenged even when they were not being immediately being targeted for enforcement, and in spite of the fact where they might potentially benefit from the policies in some ways.

This resulted in regional collective action. Once these external policies were in place, it imposed a new status quo on the region, one in which interventionist human rights enforcement was going to occur one way or another, and the only questions that remained were who would be conducting the enforcement and what means they would use to do so. Bargaining within the region over regional human rights mechanisms now took place in the shadow of the increased likelihood of outside enforcement. As a result, states in these regions became collectively willing to create, accept, and expand regional mechanisms for human rights enforcement.

This is what happened in Latin America and Africa, although, as noted above, the pressures started slightly earlier in Latin America, with international attention piqued by Augusto

[93] Rüland 2001: 16-17
[94] U.S. House of Representatives 1977: 4.
[95] *FRUS* 2013, Document 87; McBee 1977

Pinochet's government in Chile in 1973, while it didn't spread to non-*apartheid* Africa until 1977. By contrast, though there was attention by transnational advocacy networks to human rights in a number of countries in the Middle East and Southeast Asia, human rights were largely subsumed to other priorities in Western foreign policies towards these regions.

In Latin America, the onset of these challenges to their self-determination led members of the Organization of American States to ratify the American Convention on Human Rights *en masse*, with the number of ratifications growing from two in 1976 to fifteen by the end of 1979. By 1978, the convention had a sufficient number of ratifications to come into force, and along with it the American Court on Human Rights. The court was officially set up in 1979. As I discuss more in Chapter 6, this occurred alongside other changes, including a substantial increase in the budget for the Inter-American Commission on Human Rights.[96] There was also activity at the subregional level. In 1979, the Andean Community, an organization comprised of Bolivia, Colombia, Ecuador, Peru, and Venezuela, created the Andean Parliament, to which they gave authority to monitor human rights in member states.[97]

As noted above, compared to Latin America, there was a delay of several years in the onset of similar forms of pressure against sub-Saharan Africa, with the exception of *apartheid* African states. It wasn't until 1977 that similar pressures first appeared. While this represented only a short gap, it produced meaningful and clearly observable difference in the timing of engagement with human rights enforcement between the two regions. In Africa, the African Charter on Human Rights was adopted in 1981. It came into effect in 1986, and with it, the African Commission on Human Rights which the charter created was officially established in 1987.

In the Middle East and Southeast Asia, where pressure was much more muted, there was no institutionalization of human rights in any of the region's regional or subregional organizations during the 1970s and 1980s. Moves towards regional institutionalization of human rights occurred much later, and the mechanisms created were much more limited in terms of the amount of authority delegated.

I explore these shifts within individual regions in more detail in the following chapters. However, I focus first on examining cross-regional patterns more systematically using new data that I have coded on the design of regional human rights mechanisms. This data identifies all regional human rights mechanisms created within regional organizations in the Global South from 1945 to 2018. These mechanisms include institutional bodies within regional organizations that have been granted any authority to engage with human rights, human rights provisions in the charter establishing the organization, and binding and non-binding human rights charters.

In order to isolate the purposeful behavior of states in delegating authority, I code only authority that states have expressly granted to a regional organization. This means that I exclude autonomous expansion of organizations into new areas unless and until member states take action to expressly affirm this new authority through, for example, issuing a resolution, ratifying a treaty, or amending the institutional body's mandate. This excludes from the data regional mechanisms like the Tribunal of the Southern African Development Community (SADC), where the tribunal's judges broadly interpreted the SADC treaty as allowing them to hear and decide cases related to human rights. They did so on the basis of human rights having been mentioned in

[96] "Rights issue dominates OAS parley" 1977
[97] Andean Community 1979

the preamble of the organization's charter. The member states objected to this interpretation and responded by suspending the tribunal.[98]

I compare patterns of delegating enforcement authority to a regional organization in Latin America, Africa, the Middle East, and Southeast Asia. In the case study chapters, I focus on delegation within a single regional organization, looking at the Organization of American States, the Organization of African Unity (later the African Union), and the League of Arab States. Here, I look at delegation to all regional organizations within a given region, using the United Nations Statistics Division's classification of region.[99] I look at changes over time in delegation in the form of accepting regional human rights charters and declarations, as well as in the form of accepting the authority of regional human rights enforcement bodies.

2.1. Human rights charters and declarations

The first form of regional delegation I look at is acceptance of regional human rights charters and declarations. I have imposed two limits on what I include. First, I include only human rights charters of declarations that include a broad set of rights for all people. This excludes specialized human rights treaties, like a treaty prohibiting torture or on the rights of the child. The reason for this is that specialized treaties may allow states to strategically single out for codification only less controversial rights rather than responding to broad human rights pressure or expectations. Second, I exclude charters or declarations that enumerate only economic, social, and cultural rights and exclude civil and political rights. The rationale for this is that civil and political rights are the rights that must be guaranteed in order to meet external expectations for enforcement. Additionally, states typically do not find it as challenging to accept commitments to economic, social, and cultural rights, which are typically harder to assign blame for violating and tend to require only progressive measures towards realization.

Table 5.1 lists all of the charters and declarations that have been created by states in these four regions. Altogether, I have identified ten human rights charters and declarations: four in Latin America, one in Africa, three in the Middle East, and one in Southeast Asia. (The tenth declaration, the SAARC Social Charter, was adopted by South Asian states, which are not included in the analysis here.)

[98] Swart 2018

[99] For Africa, I include countries classified as Sub-Saharan Africa and Northern Africa. For Latin America, I include countries classified as part of Latin America and the Caribbean. For the Middle East, I include countries in Western Asia and Northern Africa. For Southeast Asia, I include all countries classified as in South-eastern Asia. Classifications can be found at the U.N. Statistics Division Methodology website: https://unstats.un.org/unsd/methodology/m49/overview/.

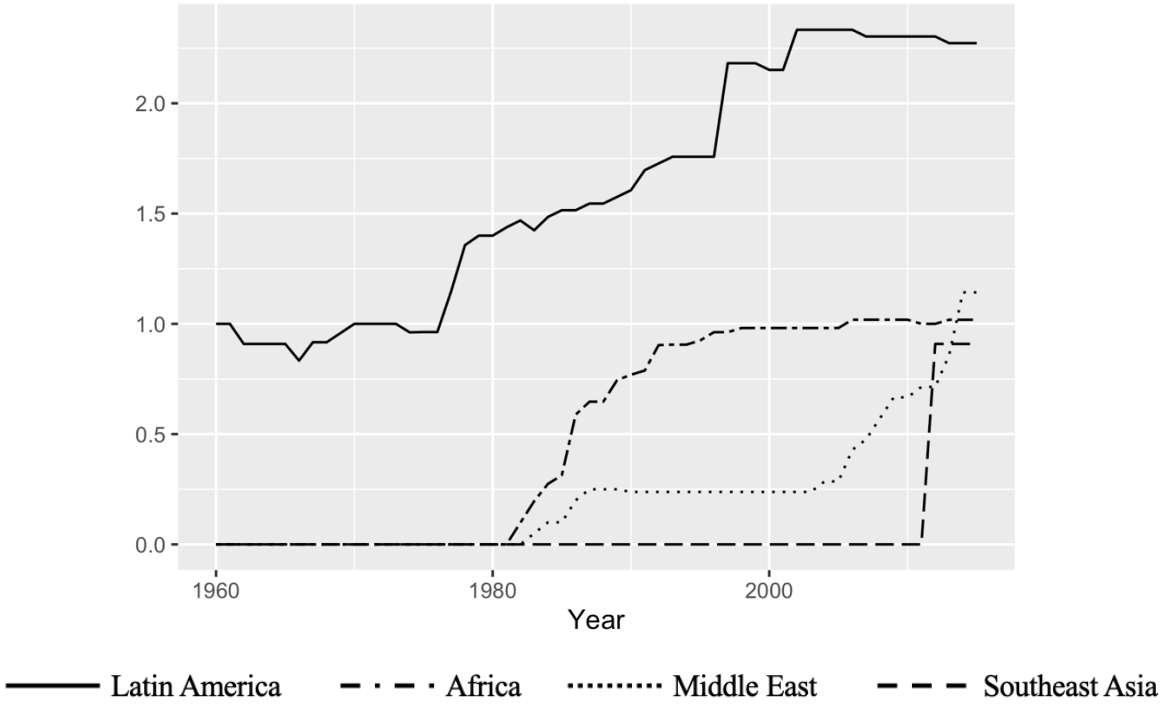
Table 5.1. Regional human rights charters and declarations

Name of charter or declaration (Year adopted)	**Legally binding?**	**Regional organization**
Latin America		
American Declaration on the Rights and Duties of Man (1948)	No	Organization of American States
American Convention on Human Rights (1969)	Yes	Organization of American States
Charter of Civil Society for the Caribbean Community (1997)	No	Caribbean Community
Andean Charter for the Promotion and Protection of Human Rights (2002)	No	Andean Community
Africa		
African Charter on Human and Peoples' Rights (1981)	Yes	Organization of African Unity/African Union
Middle East		
Arab Charter on Human Rights (1994) – *adopted but never ratified by states*	Yes	League of Arab States
Arab Charter on Human Rights (2004)	Yes	League of Arab States
GCC Human Rights Declaration (2014)	No	Gulf Cooperation Council
Southeast Asia		
ASEAN Human Rights Declaration (2012)	No	Association of Southeast Asian Nations

I look first at the total number of binding and non-binding human rights charters and declarations. The pattern that emerges, shown in Figure 5.1, largely follows the expected cross-regional pattern. The important exception is the early acceptance by Latin American states of a non-binding human rights declaration, the American Declaration on the Rights and Duties of Man, in 1948. Their move to do so preceded the events of the 1970s, which accords with the region's general predisposition towards human rights. However, the non-binding nature of this declaration made it consistent with the norm of non-interference. This was followed by a marked jump in the late 1970s, as states began to ratify the American Convention on Human Rights. For African states, as expected, the change towards creating and accepting human rights declarations and charters began in the early 1980s, several years after the uptick in Latin American delegation.

Acceptance of human rights charters and declarations by states in the Middle East and in Southeast Asia also follow the expected pattern, with almost no delegation during this initial period of the 1970s and 1980s. The small increase among states in the Middle East in the early 1980s is driven entirely by North African states with overlapping membership between in League of Arab States and the Organization of African Unity. The later increase after 2000 occurred in response to the U.S. War on Terror in the region, at which time the 2004 Arab Charter on Human Rights was adopted and began to be ratified by states. I discuss this in more detail in Chapter 8. In Southeast Asia, states accepted the non-binding ASEAN Human Rights Declaration, a non-binding document, in 2012.

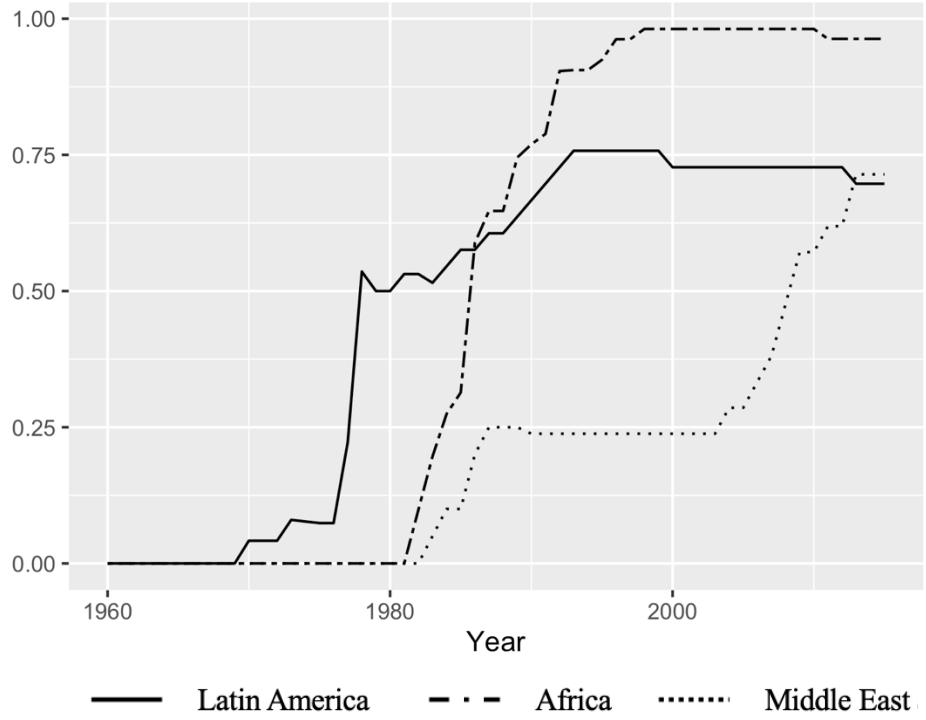
Figure 5.1. Total number of human rights charters and declarations adopted by states in each region



One thing that is important to note here is that, as of the early 2010s, there is little difference between Africa, Southeast Asia, and the Middle East in terms of the average number of human rights charters and declarations accepted by states across these regions. In fact, states in the Middle East have, on average, accepted a slightly greater number of human rights charters and declarations than states in Africa. This is driven in part by overlapping membership, with some North African states ratifying both the African Charter on Human and Peoples' Rights and the Arab Charter on Human Rights, as well as by the fact that some members of the Gulf Cooperation Council, a subregional organization, have accepted both the Arab Charter and the GCC Human Rights Declaration. However, as I discuss more when turning to look at enforcement bodies, when it comes to actually delegating authority to enforce these human rights standards, the difference between the Middle East and Southeast Asia, on the one hand, and Africa and Latin America, on the other, is much more pronounced.

Turning to look at only legally binding regional charters, Figure 5.2 shows the proportion of states in each region that have ratified such a regional charter. As shown in the figure, ratification of a binding regional charter much more closely follows the cross-regional pattern expected by my theory, with a major increase in Latin America in the late 1970s, a major increase in Africa in the early 1980s, no delegation from Southeast Asia, and a substantial increase from the Middle East only in the 2000s. This is consistent with a binding charter representing a much more substantial form of delegation that goes farther in compromising on the norm of non-interference.

Figure 5.2. Proportion of states in region that have ratified a binding regional human rights charter, by region



Legally binding human rights commitments are an important part of establishing regional authority over human rights, but they are only one part of doing so. What I am primarily interested in for the sake of this dissertation is regional *enforcement* of human rights. In fact, by the mid-2010s, a slightly higher proportion of Middle Eastern states had ratified a binding regional charter than Latin American states. However, the regional enforcement power states in the Middle East have delegated is far more limited than Latin America. In the next section, I turn to look at regional bodies created to enforce the standards elaborated in these regional documents.

2.2. Accepting human rights enforcement bodies

In this section, I look at delegation of human rights enforcement authority. As noted above, I am ultimately interested in delegation of authority that goes beyond standard-setting to actually enforcing human rights. Human rights commitments alone can have powerful effects, but the strategy that I lay out in this dissertation, of taking over enforcement within states' regional organizations, requires both a body of human rights law *and* enforcement mechanisms that are actually capable of engaging in real enforcement action.

Table 5.2 shows a list of all regional human rights enforcement bodies along with the year that it was created or, in the case of already existing bodies, the year that it was given human rights enforcement authority. I define a human rights enforcement body as an institutional body that has been granted any authority to comment on, criticize, or make recommendations regarding a member state's human rights practices. These include judicial, quasi-judicial, and parliamentary bodies. I exclude bodies that are intergovernmental because, though they have

Table 5.2. Regional human rights enforcement bodies

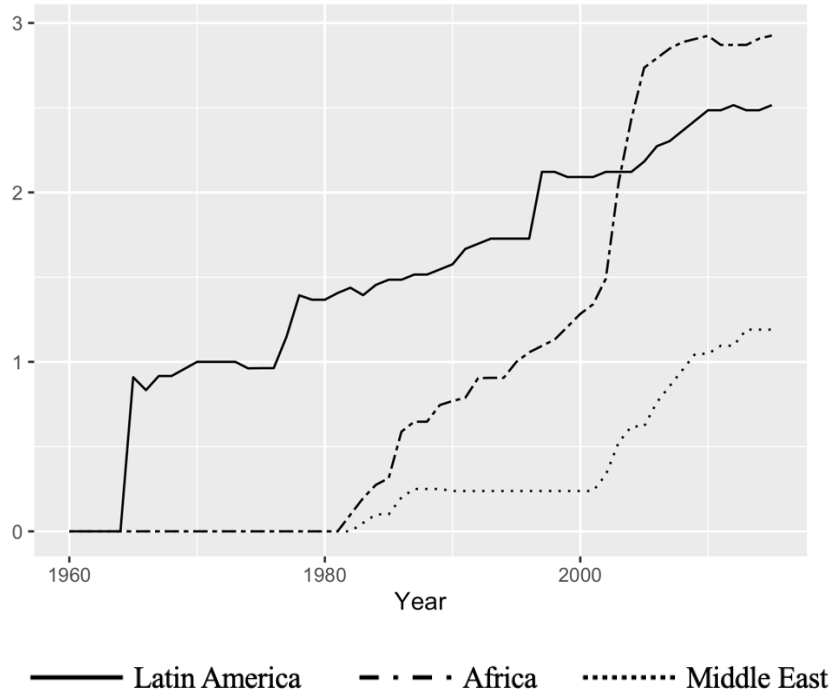
Name of body (Year)	Regional organization	Notes
Latin America		
Inter-American Commission on Human Rights (1965)	Organization of American States	Created in 1960 but enforcement authority was affirmed in 1965
Inter-American Court on Human Rights (1979)	Organization of American States	
CARICOM Secretary General (1997)	Caribbean Community	
Central American Parliament (2008)	Organization of Central American States/Central American Integration System	Created in 1991 but enforcement authority was delegated in 2008
Andean Council of Ombudsman (2004)	Andean Community	Decision to form adopted in 2004 but has yet to be established
Mercosur Parliament (2005)	Mercosur	
Caribbean Court of Justice (2005)	Caribbean Community	Can hear cases of human rights under appellate jurisdiction
Africa		
African Commission on Human and Peoples' Rights (1981)	Organization of African Unity/African Union	
African Court on Human and Peoples' Rights (1998)	Organization of African Unity/African Union	
Pan-African Parliament (2001)	Organization of African Unity/African Union	
CEMAC Community Parliament (2008)	Economic and Monetary Community of Central Africa	
East African Legislative Assembly (2001)	East African Community	
ECOWAS Community Court of Justice (2005)	Economic Community of West African States	Created in 1991 but given enforcement authority in 2005
ECOWAS Community Parliament (1994)	Economic Community of West African States	
Network of Parliamentarians of ECCAS (REPAC) (2002)	Economic Community of Central African States	Has not come into existence
Middle East		
Arab Human Rights Commission (1994)	League of Arab States	Never came into existence, replaced by Committee of Human Rights Experts
Committee of Human Rights Experts (2004)	League of Arab States	
Arab Court on Human Rights (2014)	League of Arab States	Has not come into existence

sometimes taken important action to enforce human rights within their regions, they do not meet the external expectations for appropriate and effective enforcement outlined in Chapter 3, which includes some expectation of independence from state power.

I have identified 19 total enforcement bodies. Seven are in Latin America, eight are in Africa, and three are in the Middle East. Though Southeast Asian states have recently made moves towards human rights institutionalization, including the creation of the ASEAN Intergovernmental Commission on Human Rights in 2009, they have not yet created a body that goes beyond intergovernmental cooperation to promote, not enforce, human rights. Table 5.2 shows a list of these enforcement bodies along with the year that they were created or, in the case of already existing bodies, the year that they were given human rights enforcement authority.

I now turn to looking at the acceptance by states in a region of these enforcement bodies. I look first at the average number of enforcement bodies that have been accepted by states in each region. Where states have to ratify a treaty to accept an enforcement body, I code them as having accepted the enforcement body beginning the year they ratified the associated treaty. Where member states become subject to the enforcement body as soon as it is adopted within the organization, I code them as having accepted the body the year this adoption happens. Figure 5.3 shows the cross-regional over time patterns in acceptance of enforcement bodies.

Figure 5.3. Average number of enforcement bodies accepted by states in each region



The patterns in Figure 5.3 surrounding the acceptance of human rights enforcement bodies largely conform with the expectations of my argument surrounding both the timing of the decision to compromise on non-interference and the expected divergence across regions. There is an increase in the average number of bodies accepted by Latin American states in the late 1970s, which has steadily increased since that time. This is followed by an increase in African states several years later, in the early 1980s.

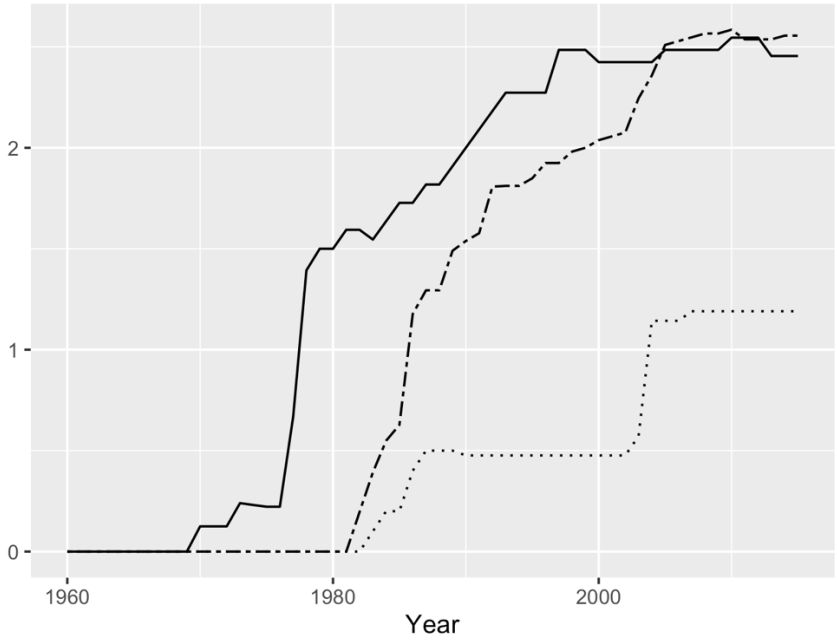
It is in the acceptance of enforcement bodies that differentiation between regions really begins to manifest. Similar to the discussion above, the much smaller increase among states in the Middle East and North Africa in the early 1980s is driven by North African states who are members of the Organization of African Unity and ratify that organization's charter. The increase after 2000 occurred in response to the U.S. War on Terror in the region. In Southeast Asia, there a regional enforcement body has yet to be created.

As with the acceptance of human rights declarations, in Latin America, there was some earlier delegation of enforcement, with states creating the Inter-American Commission on Human Rights in 1960 and affirming enforcement authority over all members of the Organization of American States in 1965. However, as I discuss in Chapter 6, the Inter-American Commission was created only to promote human rights. It was only granted enforcement authority after the commission had already been autonomously exercising this authority since its creation. Additionally, the decision to affirm this authority was prompted by the unsanctioned U.S. intervention in the Dominican Republic as part of a broader effort to re-assert regional authority over the intervention. It was not primarily motivated by human rights considerations *per se*.

I look next at the level of enforcement authority delegated to these regional enforcement bodies. I focus on judicial and quasi-judicial functions because these are considered the gold standard for human rights enforcement. Additionally, judicial and quasi-judicial bodies were, in practice, created prior to and have greater enforcement authority than other types of enforcement bodies. To capture level of enforcement authority, I rate enforcement authority for all treaty-based regional human rights enforcement bodies on a scale of zero to three. A value of one indicates that, in a given year, a state ratified a treaty delegating authority for a regional body to comment on its self-reporting of its human rights practices. Two indicates that a state has ratified a treaty accepting the authority of a regional body to receive individual complaints of human rights violations and to make non-binding decisions based on these complaints. This function is typically held by human rights commissions. Three indicates that they have accepted a regional body's authority to receive individual complaints and issue legally binding decisions. This authority is typically the purview of human rights courts. States receive a score of zero in years in which they have not ratified a human rights treaty accepting any of these competencies. I focus on treaty-based bodies because of the importance of legalization for human rights, both in terms of the level of commitment it signifies and because of the shifts in domestic expectations produced by legalization.[100] This also follows Hawkins, who codes enforcement authority based on compulsory delegation.[101] Figure 5.4 shows the cross-regional trends in average level of delegation.

[100] Hafner-Burton and Tsutsui 2005; Hafner-Burton *et al* 2019; Neumayer 2005; Simmons 2009
[101] Hawkins 2004: 781

Figure 5.4. Average level of enforcement authority, by region



Note: Figure shows average level of authority delegated through ratification of a regional treaty. 1 = comment on self-reporting; 2 = non-binding decisions on individual complaints; 3 = legally-binding decisions on individual complaints

Latin America Africa Middle East

The cross-regional patterns in Figure 5.4 closely align with my theoretical expectations. In Latin America, there is a sharp and sudden increase in delegation of enforcement power beginning in the late 1970s. This is followed by a similarly sharp increase on the part of African states in the early 1980s. For both of these regions, level of enforcement authority continued to increase over the next few decades, with more states accepting the authority of one or more human rights court.

By contrast, early delegation of authority among states in the Middle East and North Africa is again driven by the overlapping membership of these regions, with another increase of much smaller magnitude occurring in the early 2000s. Additionally, as I discuss in Chapter 8, there substantial limitations on regional human rights enforcement in the Middle East resulting from the design of the main regional enforcement body, the Committee of Human Rights Experts. As there have been no enforcement bodies created in Southeast Asia, the level of enforcement authority remains zero for all states throughout the time period.

3. Conclusion

Pressures that challenged states' self-determination varied systematically by region and resulted in collective regional responses. In this chapter, I developed and provided evidence in support of these two points. First, I showed that the use of economic pressure to enforce human rights varied by region. Second, I showed that the timing of the decision by regions to compromise on

non-interference aligned with the timing of the onset of this pressure, and with whether or not this pressure arose at all. These broad, cross-regional patterns correspond with the expectations of my argument, and they are important for establishing the basic, underlying idea regarding regional decision-making. The fact that these pressures fell across regional lines explains why states would have utilized a regional approach in response to them. The regional application of these policies made states within a region subject to the same pressures, shifting their decision-making calculus and creating a shared problem to which all states within a region had to respond.

I then showed that the patterns of delegation across regions aligns with the timing of the onset of these pressures. Across all indicators, cross-regional and over-time trends in delegation patterns align with my theoretical expectations. Comparing Latin America and Africa, states in Latin America began to delegate authority to their regional organizations several years earlier than states in Africa. By contrast, no increase in level of delegation appeared in the Middle East or Asia in the 1970s or 1980s, apart from that resulting from states that fall into both Africa and the Middle East.

For the Middle East, a substantial uptick in level of delegation only appeared in the early 2000s. In Southeast Asia, it appeared several years after. States in both the Middle East and Southeast Asia have, on the whole, delegated much less authority than states in Latin America and Africa. This divergence may seem intuitive to those familiar with these regions and their lasting attachment to the norm of non-interference. However, as I discuss in the case study chapters, the Middle East was not obviously less amenable to human rights than Africa in the 1970s and 1980s, and the increase in delegation in Latin America and Africa did not occur at times that were especially "ripe" for this kind of change.

These cross-regional dynamics in the timing of delegation of authority are central to the argument that the decision to compromise on non-interference was motivated by attempts to maintain self-determination. The evidence presented in this chapter supports this argument, showing the basic trajectory of regional patterns of pressure and delegation. At the same time, it does not establish a causal connection, and the changes shown here could be compatible with a number of other explanations. In the next chapters, I turn to assessing the more distinctive dynamics involved in this change and providing evidence linking the onset of these pressures with the decision to delegate authority to a regional organization.

Chapter 6. Latin America and the Organization of American States

In 1969, the American Convention on Human Rights was adopted and signed by the smallest possible majority of twelve out of twenty-three members of the Organization of American States (O.A.S.). Two years later, Thomas Buergenthal, a prominent legal scholar of the Inter-American human rights system who, in 1979, became one of the first judges on the newly established Inter-American Court of Human Rights, expressed doubts as to whether the convention would be able to gain enough ratifications to enter into force. In particular, he criticized the document's lack of realism, suggesting that the "true proponents of human rights…succumbed to the intoxicating effect of the dream world created by their own rhetoric and urged the creation of more and more rights, while the opponents of human rights must have been gloating at their lack of sophistication."[1] According to Buergenthal, there were few prospects for states to bring this regional system into existence.

Regional commitment to the principle of non-interference, analysts frequently noted at the time, placed strict limits on the possibility of regional human rights enforcement. The "doctrine of non-intervention," as laid out in the charter of the O.A.S., was extremely broad, prohibiting intervention carried out "directly or indirectly," including armed force and "any other form of interference or attempted threat against the personality of the State or against its political, economic and cultural elements."[2] This was an expansive prohibition that extended to actions that were otherwise permissible under international law.[3] By contrast, a former U.S. Ambassador to the O.A.S. wrote in 1968 that "respect for human rights…remain[s] safely confined to the realm of rhetoric."[4]

In the decades since, the O.A.S., including its Inter-American Commission and Court on Human Rights, has turned into one of the more effective and challenging institutional frameworks for human rights enforcement in the world, especially when taking into consideration the degree of human rights violations with which it has had to contend.[5] In 1991, one scholar asked incredulously, "How did it come to be that the OAS operates a regional human rights regime second only to the Council of Europe, but without the same underlying political commitment to implementing rights?"[6] A 2010 report produced by the European Parliament described the Inter-American regional human rights system as "well-equipped and effective."[7]

This change was abrupt, dramatic, and wholly unexpected, as voiced in 1978 by a U.S. delegate to the 1978 O.A.S. General Assembly, who asked, "who would have thought even two years ago that the General Assembly of this listless organization would endorse overwhelmingly the reports of the [IACHR] and register the concerns of the member governments about the [human rights] violations reported?"[8] As I demonstrate in this chapter, the region's historical predisposition towards individual rights,[9] the dramatic democratization that occurred in the region in the 1980s, the sudden interest in human rights within the foreign policy of the United

[1] Buergenthal 1971: 125
[2] Organization of American States 1948a: Article 15
[3] Cabranes 1967: 1153-1154 n12
[4] Dreier 1968: 489
[5] Farer 1997: 512; Forsythe 1991; Goldman 2009: 857; Sikkink 1993
[6] Forsythe 1991: 66
[7] European Parliament 2009: 5
[8] Hovey 1977
[9] Simon 2017; Sikkink 2014

States, and the emergence and penetration of global transnational advocacy networks cannot, by themselves, explain this change.

In this chapter, I first trace the creation and evolution of the Inter-American system from the time when states first gained independence in the early and mid-nineteenth century to the present day, demonstrating the persistent importance of non-interference throughout this time. I then move to assess the importance of self-determination for the decision for the members of the O.A.S. to accept and expand regional mechanisms for human rights enforcement. I do so by using the observable implications developed in Chapter 3. After laying out how their self-determination over human rights began to be challenged in the early 1970s, I provide evidence that states, including important proponents of human rights within the region like Colombia, Costa Rica, Venezuela, and Jamaica, responded by criticizing and withholding support for forms of enforcement that undermined their self-determination (*pushing back against enforcement*).

I then assess evidence related to the dynamics surrounding the move to compromising on non-interference. As a region, Latin America has historically been predisposed towards individual rights, and this produced a tension between non-interference and human rights that, up until the early 1970s, had largely been resolved in favor of non-interference.[10] Though a number of mechanisms for human rights enforcement had been established, through the early 1970s, states had been largely unwilling to accept these mechanisms. Some were deliberately designed so as to avoid compromising on non-interference, while others were created with a mind towards actually supporting the practice of non-interference.

Yet, after the onset of challenges to their self-determination, Latin American states became suddenly willing to accept and expand regional institutions for human rights enforcement (*timing of creating, accepting, and expanding regional mechanisms*). This was in spite of the fact that regional levels of democracy were at their lowest point in over twenty years. States also moved to assert the authority of regional mechanisms, including states that were facing significant challenges from regional enforcement (*asserting regional authority*). Though they pushed back against many forms of enforcement that were coming from outside of the region, human rights proponents continued to be willing to engage with and support extra-regional enforcement that did not challenge their self-determination. Additionally, rather than rejecting outside enforcement altogether, they attempted to reform extra-regional enforcement so as to allow for more equal participation and influence (*engaging with extra-regional enforcement*).

1. Regional collective action and non-interference in Latin America

The 1970s were not a propitious time for compromising on the norm of non-interference for the sake of human rights in Latin America. State faced mounting concerns about interference by the U.S., and when they finally were willing to shift from a regional order based on non-interference to one that emphasized human rights, it was a surprising and abrupt shift. Prior to the onset of pressures imposing human rights enforcement on the region, states in the region consistently prioritized the norm of non-interference, with regional institutions and regional collective action part of their efforts to achieve this goal. This followed from a long history of efforts to use international institutions to respond to interference from more powerful states, and it explains

[10] Kelly 2018; Sikkink 1996

why both proponents and opponents of human rights would value non-interference and be wary of compromising on it.

In fact, Latin American states have a long history of using both international law and regional collective action to limit pressure from more powerful states. From the time they began to achieve independence in the early nineteenth century through the early 1970s, preserving and enhancing their sovereignty and limiting interference were among Latin American and Caribbean states' main foreign policy goals. International law, regional institutions, and regional collective action were among the primary ways that they sought to achieve these goals.

An early manifestation of this included attempts in the immediate post-independence period early to create a unified Pan-American state as a way of responding to the immediate threat of reconquest by European powers.[11] With Latin American independence consolidated near the end of the nineteenth century, European states began to engage in military intervention to collect on sovereign debt and to protect state and private investments.[12] Latin American states responded to this through collective efforts to elaborate on and reshape international law on sovereign legal equality and intervention.[13] Through their development of international law and representation at the 1907 Hague International Peace Conference, they succeeded in ending this practice,[14] as well as in consolidating a norm of universal representation. This norm ensured that they would have a seat at the table and a voice at future international forums.[15]

Around the same time, they also began to use regional institution-building as a way to limit external threats and pressure. In 1890, Latin American countries formed, with the United States, one of the earliest regional organizations, the International Union of American Republics, also known as the Pan-American Union. Latin American leaders saw this organization as a way to eliminate European intervention, further codification of the sovereign equality of states, institutionalize dispute-settlement through arbitration, and expand ties with the United States,[16] which had not yet emerged as an imperial power in the region.[17]

After the Pan-American Union was formed, Latin American relations with the U.S. quickly changed. In 1823, U.S. president James Monroe had laid out the Monroe Doctrine, which claimed the Western hemisphere as the U.S.'s sphere of influence. However, it was not initially used to justify intervention in the region, and for decades, the U.S. did little to act on it.[18] In 1895, U.S. Secretary of State Richard Olney issued the Olney Declaration, which interpreted the Monroe Doctrine as giving the United States nearly sovereign control over the Western hemisphere. This was accompanied by a substantial increase in U.S. intervention. In 1898, the U.S. took over control of Cuba from Spain, along with Puerto Rico, and began its first formal occupation of an American state.[19] The 1904 Roosevelt Corollary to the Monroe Doctrine added to this the intention of the U.S. government to act as an "international police power" in the Western hemisphere.[20] Between 1898 and 1933, the U.S. occupied Cuba, the Dominican

[11] Bianculli 2016: 157; Herz 2008: 4; Mace 1988: 6; Simon 2017: 39
[12] Finnemore 2003: 27-28.
[13] These were articulated in the Calvo (1868) and Drago (1902) doctrines (Finnemore 2003: 25-28; Cabranes 1967: 1148).
[14] Finnemore 2003
[15] Finnemore and Jurkovich 2014
[16] Ridpath 1893; Crapol 2000: 119-120
[17] Corrales and Feinberg 1999: 4-7
[18] Cabranes 1967: 1148-1149
[19] Klare 1969: 257
[20] Veeser 2002

Republic, Haiti, Panama, and Nicaragua and intervened frequently in Latin America to protect its commercial interests as part of the "Banana Wars."[21] Throughout this time, Latin American states attempted to use the Pan-American Union to constrain U.S. intervention.[22]

When Franklin Roosevelt took office in 1933, relations improved substantially as part of Roosevelt's "Good Neighbor Policy." As part of this policy, the U.S. renounced its authority for unilateral intervention and ended its occupations in the region. At Inter-American Conferences in 1933, 1936, and 1945, the U.S. signed increasingly strict treaties in which it renounced its claim to authority to act as an international police power in the Western hemisphere and bound itself to absolute non-interference.[23] These efforts to codify strict non-interference as the principle underlying regional relations culminated in 1948, when the Pan-American Union was reconstituted into the Organization of American States (O.A.S.). The Charter of the O.A.S. included an expansive definition of intervention which prohibited actions that were otherwise legal under customary international law.[24]

However, with the start of the Cold War, the U.S.'s Good Neighbor policy was displaced by its Cold War containment policy, with anti-communism largely overwhelming other foreign policy goals in the region. In the decades that followed, the U.S. began to frequently undermine Latin American and Caribbean governments, support U.S.-friendly dictatorships, and engage in subversion or unilateral intervention when they believed a country to be in immediate danger of falling under communist control. This included support for the coups in Guatemala (1954), Brazil (1964), and Chile (1973); the Bay of Pigs (1961); and the invasions of the Dominican Republic (1965) and Grenada (1983).

In response, Latin American states leaned hard on the stringent non-interference standards they had succeeded in codifying in the O.A.S. Charter. Although they did not possess the material power to prevent the U.S. from carrying out military interventions or subversive acts, they did make use of the institutional mechanisms that had been established within the O.A.S. to try to slow, limit, and manage these actions. At several points, Latin American states withheld support for U.S.-proposed resolutions that labeled actions or individual states—typically socialist or communist states—as threats to peace and security, a label which could have triggered the self-defense provisions of the O.A.S. Charter. Instead, they used these occasions to reassert the principles of non-interference. Examples of this included withholding support for the U.S.'s characterization of Guatemala under the socialist government of Jácobo Arbenz as a communist threat to the region in 1953, a year prior to the CIA-sponsored coup.[25] Similarly, in 1960, member states refused to support the U.S.'s proposed language for a declaration that labeled Cuba's cooperation with the Soviet Union a threat to peace and security.[26] They also used the U.S.'s desire for the appearance of legitimacy in carrying out interventions as a bargaining chip to gain concessions from the U.S., as with the 1965 U.S. intervention in the Dominican Republic. Latin American states used this and the O.A.S.'s consultation mechanisms to place U.S. troops under O.A.S. control.[27]

Overall, the Cold War brought about what Corrales and Feinstein refer to as a transformation of "the practice of collective security" to "the practice of collective

[21] Langley 2001
[22] Cabranes 1967: 1153; Corrales and Feinberg 1999: 7
[23] Cabranes 1967: 1153; Corrales and Feinberg 1999: 7; Thomas, Jr. 1959: 73.
[24] Cabranes 1967: 1153-1154 n12
[25] Friedman 2010
[26] Shaw 2003: 75-76
[27] Akehurst 1967: 206-209

nonintervention."[28] Santa-Cruz similarly notes that "the advent of the Cold War led Latin American states to an increasingly maximalist interpretation of the nonintervention principle."[29] Because of the threat that the U.S. posed to states in the region, the importance of using regional institutions and international law to constrain the United States from interference only grew in lead-up to the 1970s.

2. Assessing the move to regional enforcement in Latin America

In this section, I assess the evidence for the observable implications of my argument that Latin American states compromised on non-interference as a way of maintaining self-determination. As I show, the evidence suggests that attempts by states to maintain self-determination explain important pieces of the move from non-interference towards regional enforcement of human rights, including behaviors by both opponents and proponents of human rights, with Costa Rica, Colombia, Venezuela, and Jamaica important proponents during this time.[30]

2.1. Pushing back against enforcement

The first observable implication I will address in this chapter relates to state reactions to human rights enforcement that challenges their self-determination. These challenges did not only affect the direct targets of human rights enforcement. They affected states that anticipated being subject to implementation, as well as human rights proponents. The latter were not themselves worried about being targeted for enforcement of human rights, but they objected in principle to certain forms of enforcement and worried about their long-term implications. While I expect states to uniformly object to these measures, I focus in particular in this section on human rights proponents, who I expect to criticize, push back against, or withhold support for human rights that they view as a challenge to self-determination, in spite of their support for human rights.

As detailed in Chapter 4, the early 1970s marked a turning point in the practice of enforcing human rights, triggered by a dramatic surge in transnational advocacy.[31] It was at this time, following the 1973 overthrow of the Salvador Allende government in Chile, that Latin American self-determination began to be challenged by the imposition of human rights enforcement. At this time, human rights violations in the region received far more international attention than those in other regions.[32]

Challenges to Latin American self-determination took two forms. The first was the use of direct enforcement by Western states, especially in the form of economic pressure, and the second was U.N. enforcement that disproportionately targeted Latin American states. Both forms of enforcement removed avenues for effectively influencing or participating in decision-making over policy that was being implemented in Latin America. In response, states, including proponents of human rights, forcefully pushed back against what they regarded as inappropriate and unwanted impositions.

[28] Corrales and Feinstein 1999: 7
[29] Santa-Cruz 2013: 40
[30] Jensen 2016; Peeler 2014; Brysk 2005
[31] Eckel and Moyn. 2013; Keck and Sikkink 1998: 79.
[32] Hafner-Burton and Ron 2013

2.1.1. Direct enforcement by Western states

There had been isolated examples of human rights being incorporated into foreign aid decisions prior to the 1970s, but the magnitude of the Western public's attention to human rights beginning at this time put their governments under unprecedented domestic pressure to avoid being seen as assisting governments that violated human rights, while creating domestic political rewards for opposing aid to violators.[33] Western leaders came under pressure from their domestic constituents and international civil society to incorporate human rights into their foreign policies, and especially to refrain from actions that were seen as supporting abusive regimes. In particular, governments were pressured to stop trading with and providing economic and security assistance to repressive governments.[34]

In 1974, largely in response to Chile, the U.S. Congress began to pass new legislation restricting security and economic assistance to states with a "consistent pattern of gross violations of internationally recognized human rights."[35] In 1975, Chile became the first country to have its security assistance cut off under the new legislation,[36] and in 1976, the U.S. voted against a development loan for human rights reasons for the first time.[37]

This pressure expanded when Jimmy Carter became president in 1977 and placed human rights at the center of his foreign policy. At the O.A.S. General Assembly in June 1977, U.S. Secretary of State Cyrus Vance announced the U.S.'s intention to link human rights with regional aid,[38] and the U.S. broached the issue of human rights at an Inter-American Development Bank meeting that same month.[39] By 1978, U.S. assistance had been restricted to Argentina, Brazil, Uruguay, Nicaragua, and El Salvador,[40] and the U.S. enacted new trade barriers with a number of these countries.[41] They also interfered with transactions between Latin American states and other countries, including trying to disrupt a Brazilian purchase of a nuclear reprocessing plant from West Germany and stopping a purchase of planes by Ecuador.[42]

The Western hemisphere had traditionally been the U.S.'s sphere of influence, and European governments had relatively fewer connections with Latin American states. Nevertheless, Western European governments used what leverage they had. They reduced economic assistance, voted against loans in IFIs,[43] refused to reschedule existing debts,[44] reduced or severed diplomatic ties,[45] and provided support and legitimation to domestic opposition movements of repressive leaders.[46] The European Commission began to discuss incorporating human rights conditionality into its preferential trade agreement with the Caribbean in 1977 as part of their broader agreement with African, Caribbean, and Pacific states.[47]

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[33] Arts 2000: 223-224; Moyn 2010
[34] Arts 2000; Young-Anawaty 1980
[35] Weissbrodt 1977: 238-259
[36] Binder 1975
[37] Weissbrodt 1977: 259
[38] U.S. House of Representatives 1977: 4
[39] "Kidnapping mars IDB meeting" 1977
[40] *FRUS* 2013, Document 62
[41] Benham 1977
[42] *Ibid*
[43] Rowen 1977; *FRUS* 2013, Document 4
[44] "Economic measures set" 1975
[45] "The British Cabinet's 'New Approach' to Chile" 1979; "U.S. Cuts Back Ties" 1979; Young-Anawaty 1980: 72
[46] Tomayo 1981
[47] Young-Anawaty 1980; Arts 2000

The region's weakness and the absence of countervailing geostrategic priorities made enforcement easy and cheap, while Latin America's high levels of economic dependence created easy avenues for enforcement.[48] One U.S. state department articulated the reasons for the outsized focus on Latin America at length in a confidential memo. The official noted that "we have a good deal of leverage in Latin America; more countries there are traditional recipients of our economic and military assistance than in, for instance, East Asia; our security and economic stake is less than in East Asia or the Middle East."[49] Additionally, the belief that Latin America was ideologically predisposed towards the West and thus unlikely to defect from the Western bloc[50] meant that applying pressure would not risk undermining Cold War goals.

These new enforcement policies challenged the self-determination of Latin American states in the sense of both their ability to domestically affirm these policies and to meaningfully participate in their design and implementation. With respect to domestic affirmation, Western states retained ultimate control over economic support and preferential access to markets on which Latin American states were heavily dependent. Economic conditions were subject only to decisions by donor states, while recipient states lacked avenues to meaningfully consent to them. In fact, this was the point. The policies were intended to impose human rights enforcement on targeted states. With respect to meaningful participation, the structural features of Latin American relations with Western states made enforcement inherently one-sided—it could only be applied to recipient states by donor states. This removed avenues for Latin American states to influence, constrain, or impose accountability over the enforcement measures being employed. This was reflected in the fact that Latin American leaders viewed economic conditions as de-valuing and undermining economic, social, and cultural rights, the right to development, and their campaign for a New International Economic Order.

These new pressures affected states who were not immediately targeted, who now had to anticipate possible future enforcement. They also affected human rights proponents, who were not themselves worried about being targeted, but who objected in principle to the policies. According to a declassified CIA memorandum, Latin American leaders were "nearly unanimous" in objecting to these enforcement policies.[51] These policies provoked nationalist and popular backlash within countries that were subject to them, and one American political analyst suggested that, in pursuing these policies, "Carter and Congress are playing right into the hands of" Latin American military dictatorships.[52]

Particularly notable were the consistent objections by states that otherwise supported human rights enforcement. Costa Rica, one of the most important and consistent supporters of human rights at both the regional and global level,[53] asserted at the 1977 U.N. General Assembly that "only when rich States really comply with their obligation to co-operate with the poor in their efforts to overcome under-development can they rightfully call for the full observance of human rights."[54] In fact, shortly after the U.S. government announced its intentions to broadly apply economic conditions during the 1977 O.A.S. General Assembly, Carlos Andrés Pérez, the democratically elected president of Venezuela and then an important human rights proponent, asserted that these policies were counter to regional norms of "self-determination,

[48] Levitsky and Way 2006
[49] *FRUS* 2013, Document 105
[50] *Ibid*
[51] *FRUS* 2013, Document 25.
[52] Benham 1977
[53] Brysk 2005
[54] U.N. General Assembly 1977f: Para. 174

nonintervention [sic], and mutual respect." He further argued that "no individual country has the right to say at what point a certain norm is being violated, or…what corrections should be made."[55] Behind the scenes, the president of Colombia stressed to an official from the U.S. State Department in 1977 that he supported the U.S.'s human rights position. At the same time, he noted that the U.S. should not be the "world's moral policeman" and should conduct its human rights policy through international organizations.[56]

During debates over a U.N. General Assembly resolution condemning Chile, a Colombian diplomat expressed their "misgivings regarding the economic sanctions which could be inferred" from the language of the resolution.[57] Commonwealth Caribbean states, among the most consistently democratic and rights-respecting, were adamantly opposed to adding human rights considerations to trade and economic assistance, with one Jamaican representative to the re-negotiations of the above-mentioned Lomé Convention asserted that human rights "has no place in an agreement dealing with trade and cooperation."[58] In consensus with other states that received benefits through the Lomé Convention, they consistently opposed the introduction of human rights conditions.[59]

During this time, nearly all Latin American states supported U.N. resolutions condemning the use of economic conditions to enforce human rights. These included a 1979 resolution in the U.N. Commission on Human Rights (UNCHR) expressing "concern" that "human rights conditions are being imposed in bilateral and multilateral trade policies"[60] and a 1981 General Assembly declaration asserting that states have a "duty to refrain from the exploitation and the distortion of human rights issues as a means of interference in the internal affairs of states…or exerting pressure on other States."[61]

2.1.2. Targeting in the United Nations

Latin America's self-determination was also challenged within the U.N., where they were both disproportionately targeted for enforcement and blocked from effectively participating in decision-making regarding enforcement targeted at the region. This was a result of the peripheral position of Spanish-speaking Latin America within the Non-Aligned Movement (NAM).[62] While Latin American states often cooperated with and had many shared interests with non-aligned states, their position firmly within the U.S.'s declared sphere of influence limited their ability to pursue non-aligned policies. It also made right-wing, U.S.-aligned regimes especially vulnerable to non-aligned approbation. Additionally, because of the coalitional strategies by non-aligned and Soviet states, Latin American states were among the only states for which it was possible to engage in human rights enforcement in the U.N.[63] At the same time, non-aligned, Soviet, and

[55] Andrés Pérez 1977
[56] *FRUS* 2018b, Document 14
[57] U.N. General Assembly 1977m: Para. 11
[58] Young-Anawaty 1980: 87 n106
[59] Arts 2000: 168, 244
[60] U.N. Commission on Human Rights 1979: 108-109; Alston 1982: 167 n58.
[61] U.N. General Assembly 1981a. Venezuela voted no, El Salvador and Guatemala abstained, and Dominica and Antigua and Barbuda were absent. Information on voting taken from the U.N. repository of voting records (accessed at: https://www.un.org/en/ga/documents/voting.asp).
[62] Obregón 2017. Conversely, Caribbean states were centrally involved in the Non-Aligned Movement.
[63] Weinstein 1976

Western states joined together in focusing on abuses in Latin America while effectively blocking Latin American participation.

Chile became the first and most intense subject of this targeting. In 1975, the *ad hoc* working group on Chile was formed by the U.N. Commission on Human Rights (UNCHR), an intergovernmental human rights body, to study human rights in the aftermath of the 1973 coup. The working group was established to investigate the use of torture, but it immediately expanded its scope to include investigating the right to assembly and free expression, labor rights, the right to health, rights of indigenous populations, and the right to education.[64] This led a representative of Colombia, a proponent of human rights, to accuse the working group of "interfering in Chile's political and economic life" even while the representative simultaneously supported the group's work on investigating missing persons.[65]

In the ensuing years, these "special procedures" were used disproportionately against Latin American states. Two additional mechanisms were created in 1979 to focus on Chile; mechanisms for Bolivia and El Salvador were created in 1981; and a working group on disappearances which was intended, in large part, to target Argentina was created in 1980. By contrast, through 1981, the only other country-specific mechanisms created were for perennial targets Israel and South Africa, and one for Equatorial Guinea, which was established only after the regime being investigated was removed from power.[66] Through 1984, Latin American countries were the only countries apart from Israel and South Africa to be singled out by General Assembly resolutions, with resolutions passed targeting Chile, El Salvador, Guatemala, and Bolivia. For the most part, discussion of states in other regions were either silenced or done in confidential sessions of the UNCHR, with the non-aligned states cooperating to limit condemnation of one another.[67]

Latin American leaders, including human rights proponents, opposed the singling out of Latin America in the U.N. and the nature of the actions that were being taken, but their objections had little effect on U.N. enforcement. Costa Rica, which, as noted above, was an important proponent of human rights, was particularly critical throughout this time. During a 1977 speech at the U.N. General Assembly, a Costa Rican delegate singled out the *ad hoc* working group by pointedly noting the "tendency" within the U.N. "to create ad hoc committees to investigate selectively cases of alleged violations of human rights with a predominantly political criterion."[68] During debates over the resolution against Chile, the Costa Rican delegate referred to the extension of the working group's mandate as an "unending nightmare," emphasizing that "it was doubtful that any Government would submit to the kind of ordeal experienced by Chile."[69]

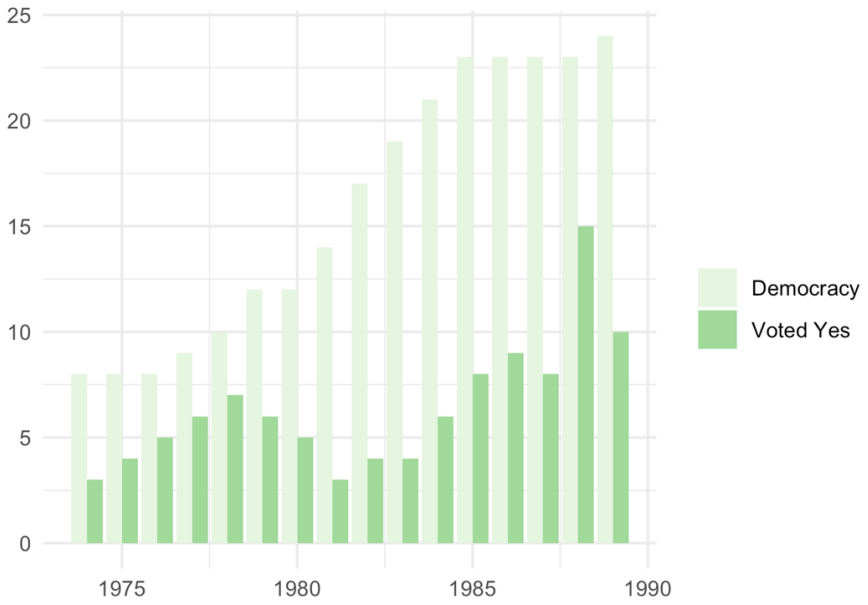
One U.S. State Department memorandum described a tense scene at the 1979 meeting of the UNCHR, during which Latin American representatives were reportedly "traumatized" by the targeting of the region, including efforts to add Uruguay, Paraguay, Nicaragua, and Guatemala to the agenda. According to the memo, the ambassador of Colombia "openly expressed his disgust" with other countries "for protecting their own regions…all while pretending to take an objective stand" against Latin American countries.[70]

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[64] Bossuyt 1978: 464; U.N. Secretariat 1975: 71-77
[65] U.N. General Assembly 1977m: Para. 11-12
[66] Brysk 1993: 270-271; Limon and Power 2014: 8-9; Weinstein 1976: 821-822.
[67] Weinstein 1976
[68] U.N. General Assembly 1977f: Para. 179
[69] U.N. General Assembly 1977m: Para. 6
[70] *FRUS* 2013, Document 184

These attitudes were reflected in a broader pattern on the part of Latin American democracies which, throughout this time, remained surprisingly unwilling to support U.N. resolutions condemning Chile. This pattern is shown in Figure 6.1. A Costa Rican representative noted one year by way of explanation for their negative vote that they "did not wish to deprive the [U.N.] of any instrument which some delegations might, however wrongly, consider effective." However, they were voting against the resolution because they viewed both the working group on Chile and the resolution as "politically biased and selective."[71] Similarly, in 1980, when a resolution against El Salvador first emerged, only three of ten democratic members of the O.A.S. voted in support of it.[72]

Figure 6.1. Support by O.A.S. democracies for U.N. General Assembly Resolutions condemning Chile, 1974-1989



Note: U.N. General Assembly Resolutions condemning human rights violations in Chile were passed annually. A large proportion of democratic member states of the O.A.S. withheld support for these resolutions.

Democracies that *did* support the resolutions against Chile noted that they did so in spite of similar misgivings. In 1977, Venezuela support the resolution, but a representative stated that they "hoped that…it would be possible…to remove [Chile] from [the] agenda and devote [their] attention to other matters."[73] Colombia's support for the resolutions was worn down over several years. They supported the resolution in 1977 in spite of their disapproval of the U.N. working group's selectivity and their report's "unnecessarily exaggerated language."[74] In 1979, the Colombian delegate voiced objections to "discrimination" in the focus on Chile.[75] In 1980, Colombia withheld support for the annual resolution against Chile for the first time.

[71] U.N. General Assembly 1977m: Para. 5-7
[72] U.N. General Assembly 1980c
[73] U.N. General Assembly 1977m: Para. 50
[74] *Ibid*: Para. 10-12.
[75] U.N. General Assembly 1979a: Para. 101

2.2. Timing of accepting and expanding regional institutions

Latin American states were willing to empower the O.A.S. to enforce human rights only after the onset of challenges to their self-determination. Before the onset of challenges to their self-determination, human rights proponents offered only limited and inconsistent support for regional institutions that compromised on non-interference. Afterwards, human rights *opponents* became willing to cooperate with and delegate genuinely challenging authority for regional enforcement, opening themselves up for scrutiny and criticism within the O.A.S. It was after the onset of these challenges that states began to delegate more authority to the O.A.S. than to the U.N., ratifying the American Convention on Human Rights earlier and under more challenging circumstances than its U.N. counterpart.

2.2.1. Before challenges to self-determination: Proponents remain reluctant

Prior to the 1970s, both proponents and opponents of human rights, and both democracies and autocrats, were hesitant to create institutions to enforce human rights that would compromise on the norm of non-interference due to overriding concerns about preventing interference. As a direct consequence of these concerns, regional human rights institutions developed haltingly, with both democracies and autocracies reluctant to create institutions that compromised on non-interference.[76] Where there were moves towards the creation of stronger enforcement institutions, they often were motivated more by alleviating concerns about intervention and inter-state peace, and less about promoting human rights, *per se*. In fact, in this context of growing threats of interference, meddling, and pressure by the U.S. during the Cold War, Latin American states remained wary of doing anything that would compromise on strict non-interference, and this extended to their engagement with human rights. This created a tension between the competing values of sovereignty and human rights which, through the early 1970s, were resolved in favor of sovereignty.[77]

This was in spite of the fact that there is a great deal of overlap between human rights as historically understood and promoted in Latin America and human rights as it is understood in the West and institutionalized in global human rights institutions.[78] Latin American states were important contributors to international human rights institutions from the time that the U.N. was formed.[79] The main regional particularity usually noted in Latin American views towards human rights is a greater emphasis on economic, social and cultural rights.[80] Yet, as discussed in Chapter 4, Latin American states were also important advocates for an international model of human rights, in which wealthy, powerful states had a duty to provide development assistance to developing states and to respect strict norms of non-interference, while they viewed the use of economic pressure and coercion as a violation of the right to self-determination and the right to development.

Early moves towards the promotion of human rights in the Inter-American system were strongly sovereignty-respecting, tending to be either non-binding or to focus on aspects of rights that did not challenge contemporary conceptions of sovereignty. Prior to the formation of the

[76] Cabranes 1967; Friedman and Long 2015; Goldman 2009; Long and Friedman 2020
[77] Kelly 2018; Sikkink 1996
[78] Sikkink 2014; Waltz 2002
[79] Glendon 2003; Obregón 2009; Sikkink 2014; Waltz 2002
[80] Glendon 2003

O.A.S., American states passed non-binding resolutions on rights of women (1936) and workers' rights (1938).[81] Binding treaties that were signed into force focused on rights that related to issues of international peace, including rights of return (1906),[82] rights of citizens outside their home country (1902, 1928),[83] and rights of asylum (1928, 1933).[84] These rights, which related to the treatment of individuals in other countries, were viewed as less controversial because they were aimed at limiting intervention and inter-state conflict, as states would sometimes intervene in other states to protect their own citizens.[85]

After World War II, human rights began to rise in prominence within the region, as it did elsewhere during this period. In 1945, the Larreta Doctrine, a mechanism for "multilateral intervention" in defense of human rights, was proposed by the foreign minister of Uruguay. Though it was supported by the U.S., along with Guatemala, Panama, and Venezuela,[86] the proposal was rejected by most other member states, including Costa Rica and Colombia, both democracies with good human rights records.[87] The government of Colombia privately emphasized their concern at compromising on the norm of non-interference, which had "cost the American peoples a great deal to consecrate" and noted the importance of considering how policies would affect "smaller and defenseless nations."[88]

Human rights were also addressed at the 1945 Inter-American Conference on War and Peace. States adopted a resolution calling for a Declaration on Essential Rights of Man to be drafted by the Inter-American Juridicial Committee. Like earlier law on the rights of migrants and refugees, the declaration was explicitly aimed at limiting intervention by eliminating the use of intervention to protect citizens residing in another state.[89] As quoted in a resolution, "International protection of the essential rights of man would eliminate the misuse of diplomatic protection of citizens abroad, the exercise of which has more than once led to the violation of the principles of non-intervention and of equality between nationals and aliens."[90]

In 1946, the Juridicial Committee produced the declaration, along with a report envisioning sovereignty-respecting forms of implementation, with an emphasis almost entirely on "separate adjustment by each state according to its national constitution."[91] As far as international action on human rights, the committee foresaw a regional human rights body that would provide "advisory functions," including the "study of practical problems involved in the protection of human rights." Anything beyond that would be strictly limited to actions by the member states, who would act only in cases where "systematic violations of fundamental rights that were part of a policy of the state in question" *and* where those violations rose to the level of being a threat to the peace justifying a response by member states.[92]

When forming the O.A.S. in 1948, member states continued the practice of binding themselves under international law only to non-controversial and sovereignty-respecting

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[81] Goldman 2009: 858
[82] *Ibid*: 857
[83] Cabranes 1968: 891 n9; Goldman 2009: 858
[84] Goldman 2009: 858
[85] Cabranes 1968: 891 n9; Obregón 2009: 95-96
[86] Cabranes 1967: 1160 n25
[87] *Ibid*: 1160 n25
[88] *FRUS* 1969, Document 156
[89] Cabranes 1968: 891-892; Medina Quiroga 1988: 29; Obregón 2009: 95-96
[90] Cabranes 1968: 892
[91] Inter-American Juridicial Committee 1946: 111
[92] *Ibid*: 112-113

measures. References in the O.A.S. Charter to individual human rights were broad and called on states only to follow, in their own way, a path to achieving such rights. No mechanisms were established to push states toward better human rights practices or to hold them accountable for their commitments. There were a number of references to human rights, but these were principled declarations rather than statements of obligation.[93] At the same conference, states adopted the American Declaration on the Rights and Duties of Man, with a majority of states voting against adopting it as a binding treaty. This included the democratic governments of Argentina, Brazil, Chile, Costa Rica, and Peru.[94]

Otherwise, the ongoing tension between human rights and non-interference, and its resolution in favor of non-interference, led to many regional mechanisms being proposed and defeated. States rejected proposals for a mechanism for collective non-recognition of non-democratic governments (1945);[95] "informative investigations" of human rights violations (1948),[96] a human rights court (1948, 1953),[97] a mechanism to study the effective promotion of human rights (1954),[98] and a human rights commission (1954).[99]

In subsequent years, there were increasing moves by states to create regional institutions to implement human rights, but upon closer inspection, these do not suggest a shift away from the norm of non-interference. For example, the creation and development of the Inter-American Commission on Human Rights was largely a response to interventionist activity by Rafael Trujillo, the authoritarian leader of the Dominican Republic. In August 1959, with the situation in the Caribbean reaching crisis levels and with Trujillo having lost the support of the rest of the region,[100] the Fifth Meeting of Consultation of American Foreign Ministers was convened to address the situation.

Human rights were prominently discussed at the meeting, and the attendees struggled to grapple with the tension between upholding the non-intervention principle and the enforcement of human rights. The Final Act of the meeting noted explicitly that "harmony among the American republics can be effective only insofar as human rights and fundamental freedoms and the exercise of representative democracy are a reality within each one of them."[101] The Act states that the meeting undertook "doctrinal study, *taking into account the strict maintenance of nonintervention*, of the possible juridicial relation between the effective respect for human rights and the exercise of representative democracy."[102]

However, despite the fact that the majority of states in the region were democracies at this time,[103] the outcome of this meeting does not seem to indicate a change of heart on the part of O.A.S. member states regarding the appropriateness of compromising on state sovereignty to enforce civil and political rights. During the meeting, there was a disagreement between states on establishing collective action mechanisms in the O.A.S. for defending human rights, with Cuba

[93] Thomas and Thomas 1974: 323; Organization of American States 1948a: Article 5(j), Article 29.
[94] Medina Quiroga 1988: 38
[95] Thomas and Thomas 1974
[96] Schreiber 1970; Goldman 2009.
[97] Schreiber 1970; Goldman 2009.
[98] Schreiber 1970
[99] *Ibid*
[100] Atkins and Wilson 1972: 104
[101] Organization of American States 1959: 5
[102] *Ibid*: 3. Emphasis mine.
[103] Based on Cheibub *et al*'s (2010) binary indicator of democracy, 62% of O.A.S. member states were democracies at this time.

and Venezuela both proposing a compromise of the principle of non-intervention. However, this was rejected by the other member states.[104]

The Inter-American Commission on Human Rights (IACHR, or the Commission) was created as an outcome of this meeting, with its statute to be drafted by the O.A.S. Council of Ministers.[105] The original mandate of the IACHR, whose statute was approved by the O.A.S. Council in June 1960, gave it no interventionist power. It could not investigate or comment on states' human rights practices,[106] and it was tasked only with "develop[ing] an awareness" of human rights and making "general" recommendations.[107] In fact, a proposal to allow the IACHR to receive complaints from individuals alleging human rights violations, often considered the linchpin of an effective enforcement regime, was put to a vote and defeated, with a number of democracies, including Brazil, Costa Rica, and Uruguay, withholding support.[108]

Instead, it was the original IACHR commissioners who interpreted their mandate as allowing the commission to receive, although not to make decisions on, individual complaints, as well as to conduct in-country visits to investigate human rights and to produce reports on individual countries.[109] States initially withheld support for this expanded authority.[110] They only moved to affirm it in the aftermath of the U.S.'s 1965 intervention in the Dominican Republic. The IACHR had been sent in on an emergency basis to oversee the return to order, as part of the O.A.S.'s larger effort to re-assert authority over the U.S. intervention. States affirmed the additional authority while the IACHR was in the Dominican Republic carrying out this work.[111] However, in addition to affirming the authority, they added new limits on the commission's ability to exercise its powers. This included a requirement that local remedies must be exhausted before the IACHR could take action on an individual complaint. It also included a clarification that the commission's reports and recommendations would be delivered to the O.A.S.'s intergovernmental bodies, who would be the ones to decide what to do with the reports, including whether to make them public.[112]

The other main human rights mechanism created during this time, the American Convention on Human Rights (ACHR), was also a product of the Fifth Meeting of Consultation that was convened to deal with Trujillo's interventionism. Unlike the IACHR, which was created and went to work almost immediately, states drug their feet much longer on creating a human rights convention. The ACHR was adopted in 1969, a full decade after states had initially called for its drafting. It occurred only after the U.N. human rights treaties—the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)—were adopted (both in 1966). Though regarded as an expansive and demanding document, it initially received very little state support following its adoption. At the time it was adopted, only 12 out of 23 states signed it,[113] and it did not receive another signature until 1977. Barbados, Haiti, Jamaica, and Bolivia did not even send representatives to the meeting where it was adopted, although both Jamaica and Barbados were democracies.

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[104] Atkins and Wilson 1972: 105; Rabe 1996: 62
[105] Fox 1968: 380
[106] Norris 1980: 48-49.
[107] Goldman 2009: 862
[108] Schreiber 1970: 36
[109] Goldman 2009: 868; Sandifer 1965: 517
[110] Schreiber 1970: 51
[111] Akehurst 1967: 203-209; Schreiber 1970: 51
[112] Fox 1968: 380-381
[113] Buergenthal 1971: 121

Additionally, in spite of these developments, the overall prioritization of non-interference over human rights appears to not have shifted during this time. With respect to the Inter-American Commission, apart from its major actions in the Dominican Republic, from the time it was inaugurated through the mid-1970s, it was weak in the exercise of its powers,[114] deferential to U.S. Cold War politics and state sovereignty,[115] and highly constrained by states in carrying out its functions.[116] By 1973, no state other than the Dominican Republic had consented to an on-site investigation.[117] The commission's requests for in-country visits were rebuffed by Haiti as improper interference in their domestic affairs, ignored outright by Cuba, and received insufficient cooperation from Bolivia, Guatemala, Paraguay, Nicaragua, and Brazil.[118]

The IACHR could initiate reports without cooperation from a state, but it required approval from the state governments in order to publicly release the reports. As late as 1974, a report on human rights violations in Brazil was completed without cooperation from the Brazilian government and presented to the O.A.S. Council of Ministers, where states silenced the report by tabling it without discussion and refraining from making it public.[119] In 1975, states similarly silenced a report on Chile in the O.A.S. General Assembly.[120]

By the end of 1976, the ACHR had been ratified by only Costa Rica and Colombia,[121] and it did not receive the necessary number of ratifications to enter force until 1978. Venezuela, Jamaica, Barbados, Trinidad and Tobago, Uruguay, Ecuador, and Chile all decided *not* to ratify the ACHR despite having democratic governments at least at some point between 1969 and 1976.

2.2.2. The move to regional enforcement: Human rights opponents cooperate

In spite of compatibility between global human rights norms and Latin American conceptions of human rights, it was only after their self-determination was challenged in the mid-1970s that states in the region were willing to collectively compromise on non-interference and engage with human rights enforcement within the O.A.S. Prior to this, states had remained reluctant to develop or engage with enforcement mechanisms that genuinely challenged their sovereignty. After decades of slow institutional development and ambivalence towards compromising on non-interference, in the mid-1970s, there was sudden and dramatic shift towards compromising on non-interference with respect to human rights. States began to positively engage with the IACHR[122] and commit more broadly to regional enforcement. However, this shift happened unevenly, with states favoring regional enforcement over outside enforcement.

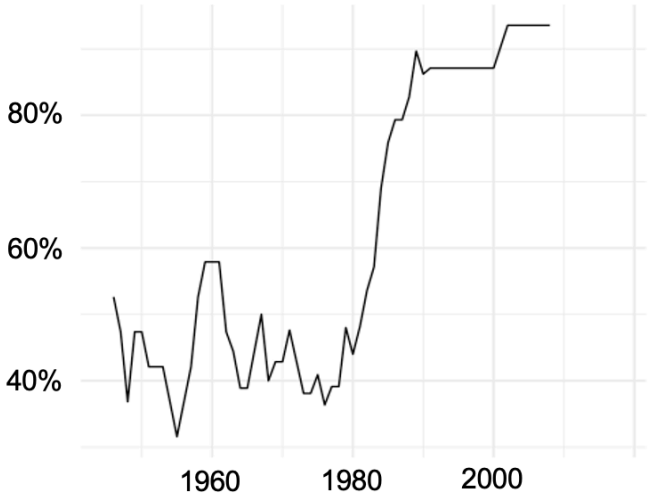
As discussed above, through the early 1970s, the IACHR was weak in the exercise of its powers and highly constrained by states in carrying out its functions.[123] Through 1973, only one

[114] Bernardi 2018; Farer 1997: 510; Forsythe 1991: 84.
[115] Bernardi 2018; Kelly 2018: 135
[116] Sandifer 1965
[117] Three states consented to visits to investigate violations occurring in another state or following an inter-state conflict. Organization of American States n.d.
[118] Thomas and Thomas 1974: 342; Norris 1980
[119] Diuguid 1974
[120] Kelly 2018: 147
[121] Costa Rica (1970) and Colombia (1973), both of which had good human rights records and were long-time supporters of human rights in the region (Peeler 2014).
[122] Forsythe 1991: 84
[123] Bernardi 2018; Farer 1997: 510; Forsythe 1991; Sandifer 1965

state, the Dominican Republic, consented to an on-site investigation of their own domestic human rights record.[124] The Commission's requests to carry out in-country visits were turned down by Haiti, ignored outright by Cuba, and received insufficient cooperation from Bolivia, Guatemala, Paraguay, Nicaragua, and Brazil.[125] States, including democracies in the region, refrained from ratifying the ACHR.

Following the onset of challenges to their self-determination in the mid-1970s, states, including human rights opponents, became suddenly willing to cooperate with and delegate challenging authority to the O.A.S. As late as 1974, the IACHR completed a highly critical report on human rights violations in Brazil—without cooperation from the Brazilian government—and presented it to the member states, who silenced the report by tabling it without discussion and refraining from making it public.[126] The O.A.S. General Assembly similarly silenced a report on the abuses of the Pinochet regime in Chile in 1975.[127] In stark contrast to this, the 1976 O.A.S. General Assembly was overwhelmingly dedicated to discussing and condemning Chile's human rights violations.[128] For the first time ever, states voted to adopt a resolution targeting a member state's human rights record, with the resolution receiving affirmative votes from every state except for Chile and Brazil.[129] These changes were abrupt and dramatic, and they started before Jimmy Carter became president in 1977 and, as shown in Figure 6.2, while more than 60% of states were authoritarian.

Figure 6.2. Percent of O.A.S. member states with democratic governments



Note: Fewer than 40% of countries were democratic from 1976 to 1978 when O.A.S. enforcement took off. Figure uses Cheibub *et al*'s (2010) binary indicator of democracy.

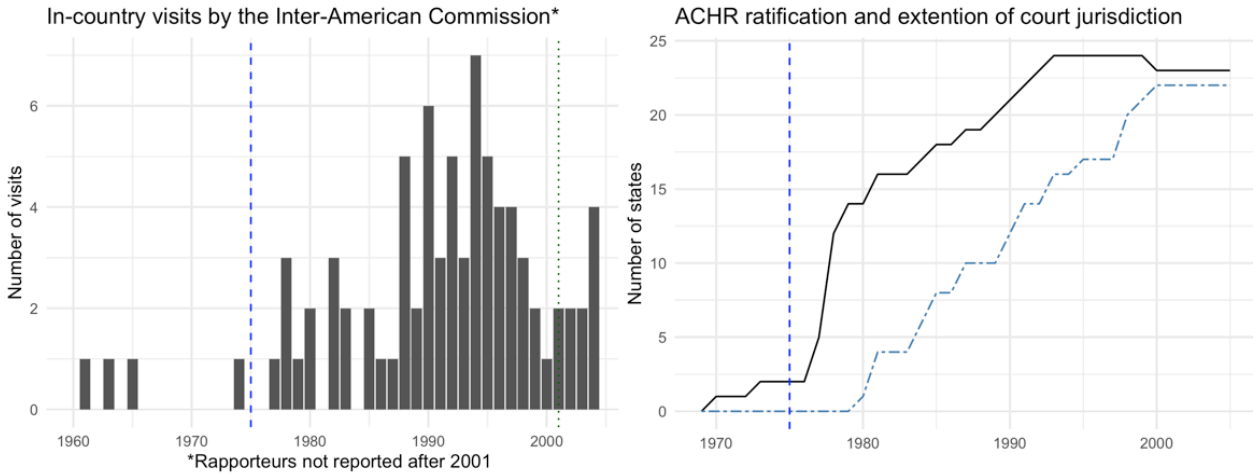
This trend continued in subsequent years. At the 1977 O.A.S. General Assembly, human rights remained a central topic of discussion. States passed resolutions in which they called out human rights violations in a number of member states and called on Uruguay and Paraguay to

[124] Organization of American States n.d.
[125] Thomas and Thomas 1974: 342; Norris 1980
[126] Diuguid 1974; Kelly 2018
[127] Kelly 2018: 147.
[128] de Onis. 1976a, b
[129] de Onis 1976a

allow on-site investigations by the IACHR.[130] They also adopted a resolution increasing the IACHR's budget and encouraging states to consent to on-site visits by the IACHR,[131] and they voted to move the following year's meeting from Uruguay to the U.S. in light of human rights abuses in Uruguay.[132] In 1978, a U.S. delegate to the O.A.S. General Assembly asked, "who would have thought even two years ago that this General Assembly of this listless organization would endorse overwhelmingly the reports of the commission and register the concern of the member governments about the violations reported?"[133]

States also began to individually engage with regional enforcement. Previously, the Commission's requests to carry out in-country visits had been rejected, ignored, or received insufficient cooperation from states.[134] However, as shown in Figure 6.3, after 1975, states began to widely consent to in-country visits by the IACHR. They also began to ratify regional human rights treaties. Through 1976, only two states ratified the American Convention on Human Rights (ACHR). In 1977 and 1978 alone, eleven new states ratified the ACHR, eight of which were non-democracies.[135] In doing so, they accepted the authority of the Inter-American Court on Human Rights, gave the IACHR the power to request the court to "take provisional measures… to prevent irreparable injury to persons," strengthened requirements for states to provide information to the IACHR,[136] and consented to the IACHR publicizing country reports without state approval, increasing the Commission's autonomy.[137] States also began to accept the extended jurisdiction of the Inter-American Court to receive complaints from the IACHR, providing a pathway for individuals to access the court.

Figure 6.3. Regional human rights engagement before and after 1975



[130] Norris 1980: 80, fn115
[131] "Rights issue dominates OAS parley" 1977
[132] Vogelgesang 1978: 824
[133] Hovey 1977
[134] Thomas and Thomas 1974: 342; Norris 1980
[135] Opponents, here meaning authoritarian states, were Ecuador, Haiti, Honduras, El Salvador, Grenada, Guatemala, Panama, and Peru.
[136] Inter-American Commission on Human Rights 1980: Chapter 1.
[137] Organization of American States 1969: Article 51(3).

2.2.3. Uneven delegation and a global-regional divergence

The new willingness of Latin American states to accept and engage with regional enforcement contrasted with their reluctance to delegate authority to the U.N., with a global-regional divergence opening up after the onset of challenges to their self-determination. Table 6.2 compares ratification of the ACHR with ratification of the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), two treaties which are the most directly comparable in terms of enforcement authority.[138] On average, states ratified the ACHR 5.6 years earlier than the Optional Protocol to the ICCPR and 0.9 years before the ICCPR. After 1975, non-democratic governments began to ratify the ACHR, while overwhelmingly refraining from ratifying the Optional Protocol. In other words, states that were the most likely to be challenged by enforcement became willing to delegate enforcement authority, but only at the regional level. This is consistent with a strategy aimed at delegating authority in order to move enforcement into the O.A.S., where enforcement would be less dominated by other states.

Table 6.2. Number of new ratifications by regime type

ACHR (regional enforcement)

	Democracy	Non-democracy
Pre-1975	2	0
1975 and on	10	13

1st Optional Protocol (global enforcement)

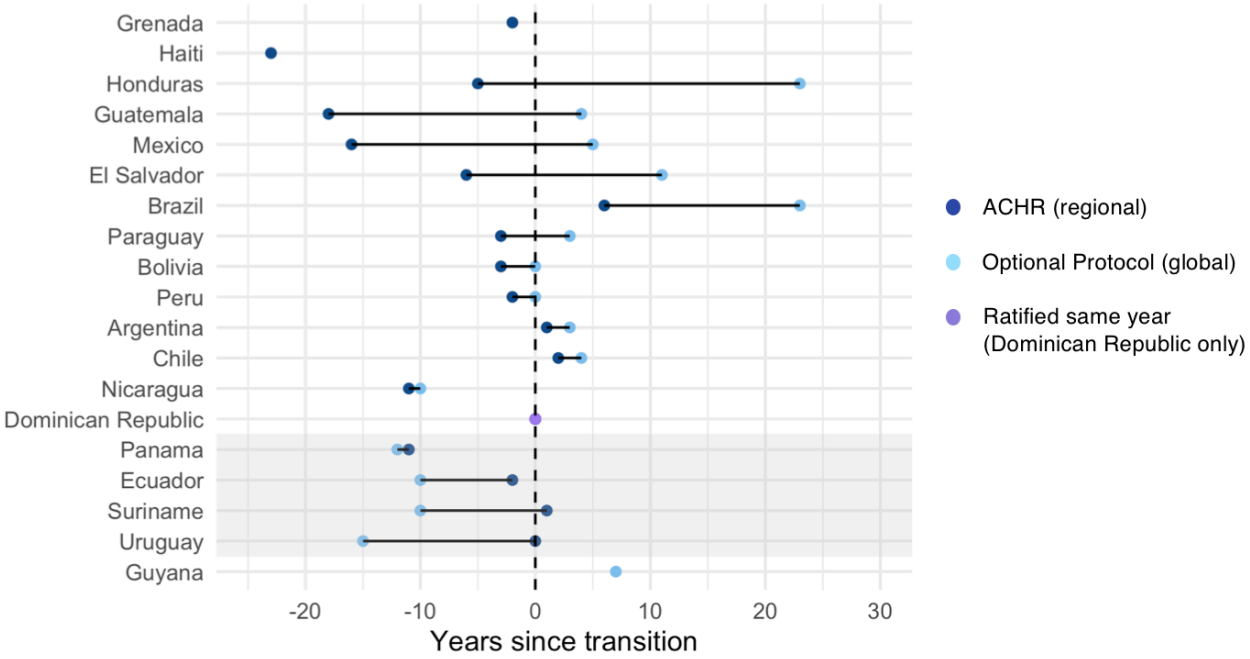
	Democracy	Non-democracy
Pre-1975	5	0
1975 and on	17	2

At the individual state level, this disparity was the result of several behaviors. Some states ratified the ACHR after announcing plans for political liberalization and then waited to ratify the Optional Protocol until after they completed democratization (Bolivia, Honduras, Mexico, Paraguay, and Peru). A couple ratified the ACHR with no plans for political liberalization, and then ratified the Optional Protocol long after the ACHR and after they had democratized (Guatemala and El Salvador). Others ratified the ACHR immediately after democratizing and then waited several years to ratify the Optional Protocol (Brazil, Argentina, and Chile). Figure 6.4 illustrates these patterns, plotting the timing of ratification for states that experienced some period of authoritarianism after 1970.

Figure 6.4 focuses on ratification patterns of individual states that emerged from a period of authoritarianism after 1970, showing when they ratified the ACHR (excluding the extended court jurisdiction) relative to the Optional Protocol. Existing theories expect new democracies or countries undergoing political liberalization to ratify human rights treaties as a way of attracting material benefits, binding future regimes to reforms, and signaling commitment to community values.[139] As shown in Figure 6.4, states that emerged from a period of authoritarianism after 1970 ratified the ACHR disproportionately preferred to make tactical commitments, send costly signals, and lock in reforms using regional enforcement, ratifying the ACHR earlier and under more challenging circumstances than the Optional Protocol. Notably, all ACHR ratifications in Figure 6.4 occurred in 1977 or later, after the onset of challenges to their self-determination.

[138] Both establish an individual complaints system through which a group of human rights experts make non-binding decisions.
[139] Hafner-Burton *et al* 2015; Lutz and Sikkink 2000, 2001; Moravcsik 1997; Pevehouse 2002, 2005

Figure 5.4. Democratic transitions and ratification of human rights treaties



Note: Figure shows ratification of American Convention on Human Rights and the First Optional Protocol to the ICCPR relative to the timing of democratic transition for states with period of authoritarian rule after 1970. Most ratified the regional treaty earlier in the process of democratization and before comparable global treaty. Vertical line indicates year of transition, with year set to 0. Gray shading separates countries that ratified global treaty first.

As show in the figure, eleven of nineteen states ratified the ACHR first, and an additional two ratified only the ACHR. These patterns suggest that leaders did use human rights treaties for the purposes expected by existing research, but that they systematically preferred to do so using regional treaties. One example of this occurred in Paraguay, where the government ratified the ACHR in 1989, immediately after dictator Alfredo Stroessner was deposed but years before elections in 1993 completed their democratic transition. The government ratified the ICCPR in 1992 and then accepted the jurisdiction of the Inter-American Court of Human Rights to receive individual complaints via the IACHR in 1993. Finally, in 1995, Paraguay ratified the First Optional Protocol. Similarly, Honduras' democratic transition began in 1977 with the approval of a new electoral law. The military government ratified the ACHR that same year. In 1981, the government accepted the expanded jurisdiction of the Inter-American Court months before holding competitive elections, which completed the transition to democracy. The government did not ratify the ICCPR or the First Optional Protocol until 1997 and 2005, respectively.

2.3. Meeting external expectations

In terms of the content of human rights as it was enforced within the O.A.S., it was primarily directed at violations of human rights by states against individuals, with a focus on physical integrity rights. As developed in Chapter 4, these were the rights that were the primary concern of actors outside of the region that were exerting pressure at this at this time. Generally speaking, this is not surprising, as regional views regarding human rights are quite close to global human rights norms. Slightly more unexpected is that, though one regional particularity of human rights

in Latin America is a relatively greater emphasis on economic, social, and cultural rights,[140] regional enforcement during this time was not at all focused on this category of rights. In fact, when the U.N. working group on Chile expanded its work to cover economic and social rights, Latin American states criticized this development.[141]

The most important component of meeting external expectations for appropriate and effective enforcement was the need for enforcement within the O.A.S. to be sufficiently challenging to states, especially by compromising on the norm of non-interference. In fact, by the mid-1970s, reports on Brazil and Chile had shown the IACHR to be a critical and highly independent human rights body. The 175-page report on Chile included allegations that the right to physical security was "directly and seriously violated by the practice of psychological and physical abuse in the form of cruel and inhuman treatment" and that many of the 5,500 people imprisoned by the new Chilean government had not been charged or brought before a court.[142] Argentina considered leaving the O.A.S. due to the criticism of its human rights,[143] and Southern Cone dictatorships mounted unsuccessful attempts to "reform" the IACHR by subjecting it to greater state control.[144]

Rather than viewing the IACHR as a rubber stamp for their claims that human rights violations were not happening, states used delay tactics to put off visits from the IACHR and questioned its independence and findings.[145] They also remained reluctant to ratify the ACHR.[146] Anastasio Somoza, the dictator of Nicaragua, noted privately to the U.S. his government's hesitation to open themselves up for "attack" in the Inter-American Court by ratifying the ACHR.[147] It was in spite of these fears that states accepted regional enforcement.

2.4. Asserting regional authority

At this time, states also began to assert the authority of the O.A.S.'s enforcement mechanisms. A proposal from Chile in 1975 represented the first push from a state from the Global South to assert regional authority. In U.N. debates, Chile began to emphasize its cooperation with the Inter-American Commission on Human Rights, arguing that its cooperation with this regional human rights body should be regarded as justifying their refusal to permit a visit from a newly formed U.N. working group.[148] That year, the Chilean delegation submitted a U.N. draft proposal calling for the establishment of a new system within the U.N. for investigating allegations of human rights violations. It would be made up of ten independent experts, but notable in the proposal is the idea that the system should "allow for appropriate participation of regional organizations."[149]

Over the next few years, Chile used increasingly strident language to argue for deference to regional mechanisms, including arguing that its own regional system, because it clearly laid out procedures for conducting investigations, provided "due process," where the U.N. system did

[140] Glendon 2003
[141] Bossuyt 1978: 464; U.N. General Assembly 1977m: Para. 11-12
[142] Inter-American Commission on Human Rights 1974: Chapter XVI
[143] *FRUS* 2018, Document 109
[144] *FRUS* 2018, Document 54; Medina Quiroga 1988: 280; Lederer 1977
[145] *FRUS* 2018, Document 83; Lederer 1977; "Rights issue dominates OAS parley" 1977
[146] Norris 1980: 47, 69-70
[147] *FRUS* 2016, Document 78
[148] U.N. General Assembly 1975b: Para. 46, 1975c: Para. 15, 1975d: Para. 35
[149] U.N. General Assembly 1975d: Para. 35-38, 1975a: Para. 2 (Author translation).

not.[150] In 1977, Chile again put forward its proposed resolution for a mechanism consisting of ten independent human rights experts. However, where the 1975 version included language noting on "allow[ing] for appropriate participation of regional organizations," by this time, the language had been sharpened to specify that the new U.N. system should "recognize the principal and determining participation of regional organizations" and "avoid duplication of competence,"[151] effectively institutionalizing deference to regional enforcement. This was in spite of the fact that Chile was simultaneously complaining about the IACHR's findings and arguing for reforms within the O.A.S. to limit its IACHR by establishing "regulatory standards" for it.[152]

In a similar example, a Guatemalan delegate responded to criticisms of its human rights practices during U.N. General Assembly debates in 1980, with delegate asserting that the Guatemalan people "rejects *any kind of interference in its domestic affairs*," before proceeding immediately to say that, "[p]recisely for that reason, ...we have extended an invitation...to the Inter-American Commission on Human Rights of the Organization of American States to visit Guatemala to observe our full enjoyment of human rights."[153]

In 1976, other Latin American states began to join Chile in making the case that regions were better equipped to deal with human rights problems arising within their own region. This became a regular point argued by Latin American states. This included human rights proponents like Venezuela, whose representative stressed during the 1980 U.N. General Assembly debates that "we want the problems of Latin America to be solved only by Latin Americans."[154] A similar assertion was made by Napoleon Duarte, the president of El Salvador and the leader of the country's military junta in 1981, a country that was being criticized in the U.N. for its human rights practices, and who stated at the U.N. General Assembly that "[i]t has been the constant practice in this world Organization not to deal with situations that have been dealt with in regional organizations."[155]

Governments in the region, including those that were under pressure for human rights abuses, emphasized the legitimacy and effectiveness of regional organizations in solving human rights issues within their region, while criticizing U.N. enforcement for not giving proper recognition to the O.A.S.'s efforts. This was in spite of the fact that these same states were simultaneously complaining about and trying to undermine enforcement by the IACHR. In 1981, the president of El Salvador asserted that regional organizations, "by their very nature, their proximity and the cultural roots of their members can understand more clearly the interpretation of what happens in their respective regions."[156] A member of the Nicaraguan delegation similarly asserted that "Latin Americans were very well aware of their own history and idiosyncrasies and were the only ones entitled and able to solve Latin American problems."[157] In 1977, the Dominican Republic, Peru, Paraguay, and Uruguay each criticized a U.N. resolution on Chile for "ignor[ing]" or "disregard[ing]" the O.A.S.'s role in resolving the situation in Chile.[158]

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[150] U.N. General Assembly 1977h: 133-137
[151] U.N. General Assembly 1977d
[152] Kelly 2018: 146-147; Lederer 1977
[153] U.N. General Assembly 1980b: Para. 302-303. Emphasis mine.
[154] *Ibid*: Para. 235
[155] U.N. General Assembly 1981b: Para. 25
[156] *Ibid*: Para. 24
[157] U.N. General Assembly 1977l: Para. 45
[158] U.N. General Assembly 1977m: Para. 2, 13, 14, 1977l: Para. 35

This process of asserting regional authority was helped along by the fortuitous election in 1982 of Javier Pérez de Cuéllar as Secretary General of the United Nations who was, throughout his tenure, predisposed towards accepting regional solutions to regional problems. Pérez de Cuéllar had been a Peruvian diplomat prior to becoming U.N. Secretary General. Upon taking the position, he professed an attitude towards regional organizations which he claimed reflected this background, taking a stronger stand than former Secretaries General that the U.N. should, where possible, play the role of supporting and cooperating with regional organizations.[159] This was coupled with his reputation for preferring "discreet diplomacy" when it came to human rights.[160] In fact, shortly after taking office, he dismissed the Director of the U.N. Division on Human Rights Theo van Boven after van Boven publicly named several countries as human rights violators. Following the dismissal, many voiced suspicions that the firing was the result of anger by Latin American governments, who had been targets of van Boven's advocacy.[161]

Pérez de Cuéllar emphasized his perspective on regional solutions with respect to the unfolding situation in Central America, which had received tremendous attention within the United Nations human rights bodies. Pérez de Cuéllar took great pains to defer to regional approaches,[162] with his rhetoric echoing the assertions made by states that "the problems of Latin America should be resolved by Latin Americans."[163] He expressed the same attitude during an interview in 1989 when asked about the mounting crisis in Panama. Pérez de Cuéllar asserted, "we have to allow the regional organizations the chance to solve the problem…They may wish to come to the United Nations for help. In the meantime, I think we have to give the regional body a chance."[164]

By 1989, the extent to which regionalization had taken root within the U.N. Commission on Human Rights was the subject of criticism from the international NGO International Service for Human Rights, which was established in 1984 to monitor the proceedings of the UNCHR, among other things. In reports from both 1989 and 1990, the organization's director singled out and expressed displeasure regarding the fact that in recent years, regionalization had taken over the Commission.[165] The director suggested that the strategy had been first employed by Latin American countries, with other regions emulating their approach.[166]

2.4. Engaging with extra-regional enforcement

Throughout this time, Latin American proponents of human rights objected to specific forms of enforcement that challenged their self-determination, but not extra-regional enforcement, *per se*. In fact, though a preference for regional enforcement appeared, these states remained open to and even encouraged enforcement from outside the region. During the earliest days of the U.N., Latin American states were important protagonists for human rights, helping to ensure that they were incorporated into the U.N. Charter against the opposition of some Western states and playing a central role in the drafting of the Universal Declaration on Human Rights.[167]

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[159] Gauhar 1984: 20-21; de Soto 2018: 126-128
[160] Briceno 2020
[161] Guest 1982; "U.N. Human Rights Commission Director Theo van Boven, who…" 1982
[162] De Soto 2018: 92; Hills and Shaw 1990: 92
[163] "De Cuellar Urges Non-Interference in Latin America" 1983
[164] Hills and Shaw 1990: 92
[165] Zoller 1989: 211-212
[166] Zoller 1990: 142-143
[167] Glendon 2003: 27-40; Obregón 2009: 95-96; Sikkink 2014

Though they objected to the use of economic pressure for enforcing human rights, these states consistently supported other forms of enforcement. When, as noted above, Venezuelan president Carlos Andrés Pérez criticized the U.S.'s use of aid to enforce human rights, he did so by emphasizing that these matters were more appropriately handled by "supranational organizations at regional *and world* levels."[168] In the context of the Lomé Convention, Caribbean states, together with other states that received aid and preferential trade through the treaty, objected to conditioning Lomé privileges on human rights, but at various points, many supported the creation of procedures for addressing human rights that would be applicable to them and European states equally.[169]

The proposal to establish a U.N. High Commissioner for Human Rights was a clear example of their openness to extra-regional enforcement. It is also emblematic of the ways that states responded to the undermining of their self-determination by attempting to reform global enforcement rather than rejecting it outright. In 1965, Costa Rica began to champion the creation of a High Commissioner, an independent and impartial office which would carry out a wide range of enforcement functions. When Latin American self-determination began to be challenged in the 1970s, Costa Rican representatives began to expressly argue that there was a "need for such an agency" to alleviate the selectivity and politicization of existing mechanisms, namely the *ad hoc* working group.[170] The proposal received a great deal of support from Latin American states, with a 1977 General Assembly resolution to establish the post co-sponsored by Bolivia, Colombia, El Salvador, Honduras, Panama, Suriname, and Venezuela.[171]

Additionally, in spite of their persistent criticisms of the *ad hoc* working group on Chile, Latin American states supported an unsuccessful proposal by Italy in 1978 to expand the use of *ad hoc* groups for investigating human rights in any state in which human rights abuses were taking place. Costa Rica again offered vocal support of the proposal as a means to rectify bias in human rights enforcement, noting that "what most destroys the prestige of the United Nations…is…that view of human rights as a one-way street." The proposed resolution, they suggested, would help solve this problem of bias.[172] Though Costa Rica was the most outspoken of Latin American states, the proposal received positive votes from Chile, Colombia, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, and Venezuela.[173]

3. Conclusion

With very few exceptions, states in Latin America and the Caribbean were only willing to empower the O.A.S. to enforce human rights after they lost a voice in human rights at the global level. After this happened, they attempted to move human rights policy out of the global level and into the regional level, expanding regional mechanisms that operated on the basis of state equality and multilateralism, demonstrating a preference for regional mechanisms, and advocating for global actors to defer to regional enforcement, even though regional mechanisms

[168] Andrés Pérez 1977. Emphasis mine.
[169] Arts 2000: 244-250
[170] U.N. General Assembly 1977f: Para. 177-179
[171] U.N. General Assembly 1977b
[172] U.N. General Assembly 1978b: Para. 215-216
[173] *Ibid*: 1601-1602

were highly critical of state practice. They pushed for the U.S. to stop cutting off aid and voting against loans and to instead defer to regional enforcement mechanisms.

The evidence provided here suggests that states in Latin America, both proponents and opponents of human rights enforcement, were motivated to empower the O.A.S. to enforce human rights by challenges to their self-determination. Their behavior sharply conflicts with existing expectations that states will broadly support enforcement if they support human rights and reject enforcement otherwise. Their negative reaction to the imposition of enforcement by both Western states and the U.N. also suggests that objections to challenges to self-determination are separate from objections to that enforcement reproduces historical patterns of domination. Opposition to enforcement by former imperial or colonial powers may instead be distinct from and layered on top of principled opposition to undermining of self-determination.

Chapter 7. Africa and the Organization of African Unity

In 2001, the Organization of African Unity (O.A.U.) was transformed into the African Union (A.U.). As part of this transformation, the new successor organization was given a wide-ranging role in the enforcement of human rights in the region, with the protection of human rights made an objective of the organization and respect for human rights one of the organization's principles.[1] This included, most notably, the right for the A.U. to intervene in member states in response to war crimes, genocide, and crimes against humanity.[2] Shortly after, in 2004, the statute for an African Court on Human and People's Rights came into force. Many scholars have suggested that this change in regional governance represented a shift in regional norms from "non-interference to non-indifference" following post-Cold War liberalization and in the aftermath of the Rwandan genocide.[3]

While these shifts were significant and dramatic, these changes in the late 1990s and early 2000s were a culmination of a longer process. The roots of this change are found in earlier shifts away from complete non-interference that occurred in the late 1970s and early 1980s. It was at this time that African states adopted and began to ratify the African Charter on Human and Peoples' Rights, bringing into existence the African Commission on Human and Peoples' Rights.

This shift was motivated by a desire to maintain self-determination over human rights. Senegalese president Léopold Senghor, an important champion for the African system, articulated this goal when he made a distinction between being brought into the fold of human rights versus entering the fold under their own initiative and on their own terms. In 1979, in an address to the group of experts tasked with drafting the African charter, he emphasized that Africa should "assimilate but not be assimilated."[4] Similarly, Edem Kodjo, then Secretary General of the O.A.U. and a central personality behind the creation of the regional system, suggested that an important motivation behind African states' willingness to agree to adopt a regional system was "liberation vis-à-vis the rest of the world."[5]

Many have criticized the African human rights system, especially during its early years, for its ineffectiveness. These criticisms certainly have merit. Yet, it is also the case that the establishment of an African regional human rights system with formal authority that genuinely violated strict non-interference was a major step forward for the region. It included the establishment of an independent commission comprised of human rights experts that was tasked with "ensur[ing] the protection of human and peoples' rights." In pursuit of this mandate, it was empowered to "resort to any appropriate method of investigation," receive and act on individual communications, and to apply not only the African charter, but all relevant international human rights law.[6] This represented a substantial break with their previous stance on non-interference. In the years after it came into existence in 1987, the African commission increasingly asserted its independence, interpreting its mandate broadly and expanding its authority to include activities not envisioned by the document's drafters or expressly laid out in the charter.[7]

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[1] African Union 2000: Article 3(h) and Article 4(m)
[2] *Ibid*: Article 4(h)
[3] For just three of many examples, see Apuuli (2012), Kioko (2003: 819), and Williams (2007).
[4] Jallow 2007: 30
[5] Kodjo 1990: 273-274
[6] Organization of African Unity 1981: Articles 45(2), 46, and 60.
[7] Heyns 2004: 688-698; Viljoen 2007: 325-326, 346-349

In this chapter, I focus on the regional changes regarding attitudes towards the norm of non-interference in Africa. As in Chapter 6, I assess the evidence for observable implications derived in Chapter 3. These include opposition by human rights proponents to enforcement that challenged their self-determination (*pushing back against enforcement*), the timing of the move to compromise on the norm of non-interference (*timing of creating, accepting, and expanding regional mechanisms*), their accompanying efforts to encourage deference to regional approaches (*asserting regional authority*), and their simultaneous willingness to engage with outside enforcement that did not challenge their self-determination (*engaging with extra-regional enforcement*). As I developed in Chapter 3, these dynamics in combination with one another are distinct to the argument that states delegated authority to maintain self-determination.

I look first at the changes that occurred during this initial period of the late 1970s and early 1980s and then examine the strengthening and expansion of African human rights enforcement after the end of the Cold War. In 1977, in response to widespread attention to Idi Amin's brutality in Uganda, Western states began to focus on human rights violations in sub-Saharan Africa. The European Economic Community, which provided a large proportion of Africa's development assistance and preferential market access, began to push to add a clause allowing them to suspend economic assistance in response to human rights into the Lomé Convention, an association agreement governing a substantial proportion of this economic cooperation.

In response to this challenge to their self-determination, and in order to deflect pressure to add human rights language to the convention, African states attempted to take over human rights within the O.A.U. In 1979, they passed an O.A.U. resolution calling for the creation of an African human rights charter, along with a commission to implement the charter, which they adopted in 1981. It was at this time that African states formally dropped their across-the-board objections to interference, instead moving towards a conception of African solutions to African problems that was tolerant of interference, so long as it came from within or was led by Africa.

This development also marked the starting point for later institutional and normative developments. After the end of the Cold War, Western states began to more aggressively pursue the enforcement of liberal norms in Africa, greatly expanding the practice of conditioning aid on states' human rights performance. As expectations from Western states regarding what regional human rights enforcement needed to look like in order for the O.A.U. to be considered a legitimate authority became more demanding, African states moved to expand their existing human rights institutions and to increase their cooperation with them, including by adopting a statute for a human rights court, addressing human rights violations within their inter-governmental bodies, and cooperating with the African Commission on Human and Peoples' Rights.

As I show in this chapter, self-determination over human rights was an important motivation for the decision to compromise on the norm of non-interference, in spite of the weakness of African states and their reliance on the acceptance and observation of sovereignty norms for their survival.[8] Attempts to maintain self-determination explain important aspects of the decision and the form that the shift in attitudes away from non-interference took.

[8] Clapham 1996; Herbst 2000; Jackson 1990; Jackson and Rosberg 1982; Krasner 1985

1. The history of collective action in support of non-interference

There is a long history in Africa of regional collective action in support of non-interference. The norm of non-interference, the use of collective action in support of this norm, and the particular form that these efforts came to take in Africa have their roots in the anti-colonial struggle and the focus within this struggle on restricting outside interference in the African continent. The first step in this process was achieving sovereign independence, which involved getting external actors formally out of Africa. The second was responding to post-independence threats to state sovereignty and political independence in the form of informal influence and control. Prohibiting interference remained central to regional projects up until and even after the decision to compromise on non-interference in the 1970s and 1980s.

Throughout both stages, one of the primary forms that collective action took was Pan-Africanism, which aimed to utilize collective action to end colonial domination on the African continent and in the Caribbean. These efforts formed part of a larger transnational movement aimed at dismantling both international and domestic racial domination.[9] The struggle against racism within countries like the United States was seen as inextricably linked to the struggle against colonial domination of non-White peoples throughout the world. This link was articulated in W.E.B. Du Bois's concept of the global color line. Du Bois famously argued that "The problem of the twentieth century is the problem of the color-line—the relation of the darker to the lighter races of men in Asia and Africa, in America and the islands of the sea."[10]

Pan-Africanism sought to bring together people of African descent from around the world, including in the United States and Western Europe, the Caribbean, and Africa, in a shared project of emancipation. The goals of Pan-Africanism were always decidedly global, including bringing an end to colonialism, imperialism, racial discrimination, and capitalism, though the movement's leaders were initially based largely out of the United States and Europe. Pan-African Congresses, international gatherings of Pan-Africanists, in the first half of the twentieth century consisted largely of Westerners. This changed with the Fifth Pan-African Congress, held in 1945 in Manchester, England, which marked the moment when Pan-Africanism's center of gravity shifted to the African continent. It was the first meeting to have a substantial number of delegates from the African continent, including future heads of state Kwame Nkrumah of Ghana and Jomo Kenyatta of Kenya. It also marked a turning point in the Pan-African movement. Following the end of World War II, Pan-African leaders were energized by the self-determination clause of the 1941 Atlantic Charter and by their own contributions to the Allies' victory in WWII to demand that Western states realize self-determination principles in colonized territories.[11]

Decolonization of Africa commenced in the late 1950s and progressed rapidly. In 1960 alone, seventeen African countries gained their independence, and in the 1950s and 1960s, a total of twenty-nine African states became independent. Throughout this time, decolonization was discussed as a collective effort. Kwame Nkrumah, who led Ghana to independence in 1957 and became the country's first post-independence leader, made this point in his independence day speech, asserting that "our independence is meaningless unless it is linked up with the total

[9] Henderson 2018
[10] Du Bois 1961: 23
[11] Adi 2018; Eckert 2012; Esedebe 1994; Ibhawoh 2018: 130-133; Kufuor 2010: 1-2

liberation of the African continent."[12] Nnandi Azikiwe, Nigeria's first president, similarly argued in 1962 that

> "African States should now…declare a doctrine of non-intervention in the continent of Africa, making it clear that the establishment of the continued existence of any colonial territory in Africa, by any non-African State, shall be regarded as an unfriendly act and an act of aggression against the African States collectively."[13]

This emphasis on the completing decolonization was an important part of formal cooperation within the region. Following its creation in 1963, one of the first actions of the Organization of African Unity was the setting up of a Liberation Committee to provide material and financial support to liberation movements.[14] Through their joint action, African states pushed the U.N. to accept liberation movements as the authentic representatives of their states.[15] African states also used the O.A.U. as a forum to organize shared positions on *apartheid*, which they then promoted in other bodies, most importantly the U.N. These positions included pressure other governments to sever relations and implement sanctions.[16]

As the anti-colonial movement progressed and more African states gained independence, African collective action shifted from completing decolonization to consolidating it.[17] African independence leaders expressed awareness that their individual weakness and vulnerability limited their *de facto* independence and leave them vulnerable to both overt intervention and forms of informal control.[18] Nkrumah used the term neo-colonialism to describe the ways that the independence of African states was undermined by their own weakness and by pre-independence forms of economic control. He again proposed African unity as a way of ensuring freedom from these continued forms of domination that compromised their political independence.[19] This extended into the idea of economic self-determination. In private conversations with Jimmy Carter in 1979, Liberian president William Tolbert, an important supporter of human rights in Africa, expressed the view that "if economic dependency and underdevelopment continue, Africans will not be free."[20]

Another major concern in terms of interference during this time came from *apartheid* countries in Southern Africa. Violence during the anti-*apartheid* struggle spilled over into neighboring countries, who became known as the Frontline States. These states allowed rebel groups from *apartheid* countries to use their territory as a base, and, as a result, were themselves the subject of interventions by *apartheid* states. States worked together to support the Frontline States in their struggle against *apartheid* South Africa and Rhodesia.[21]

Though there was general consensus over the importance of African unity, there were significant divisions regarding the form that this unity should take in post-independence Africa. The Brazzaville and Casablanca groups were the product of these differences, with the two

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[12] Getachew 2019: 1
[13] "Nnamdi Azikiwe, 'The Future of Pan-Africanism'" 2009
[14] Murray 2004: 10
[15] Amate 1986: 29-30
[16] Amate 1986; Binaisa 1977: 58-59; Klotz 1995
[17] Gutteridge 1983: 24-25
[18] Getachew 2019: 98-104
[19] Nkrumah 1965
[20] *FRUS* 2018c, Document 49
[21] Desmidt 2017: 4-5; Klotz 1995

groups advocating for different approaches to pan-African unity. The Brazzaville group supported an inter-governmental organization of African states, while the Casablanca group favored the creation of a single United States of Africa.[22] The inter-governmental option ultimately prevailed, and the Organization of African Unity was established at the 1963 Summit Conference of Independent African States.

Central to the goals of the O.A.U. were consolidating the sovereignty of newly decolonized African states, including strengthening their collective influence, eliminating outside interference and completing the process of decolonization.[23] [24] At the session in which the O.A.U. was formed, Ethiopian leader Emperor Haile Selassi I emphasized that "the opponents of Africa's growth" would be "served by a divided and balkanized continent" and "what we require is a single African organization through which Africa's single voice may be heard."[25] Additionally, though they had been primarily motivated by concerns about interference from outside of the region, there were also internal rivalries that led to worries about intervention by other African states, and with its creation, states adopted an absolutist stance on non-interference that applied to both inter-African relations and the involvement of actors from outside of the continent.[26]

Within the O.A.U., states were quick to call out violations of the norm of non-interference and to insist on respect for sovereignty and territorial integrity.[27] Leading into the 1970s, African states were no less concerned about external interference, in part due to the frequency of Cold War meddling, the continuation of proxy wars throughout Africa, and the fact that Portugal continued to cling to its colonies after other European states had accepted African independence.[28] African leaders also remained quite critical of other forms of interference and exploitation that they saw as replacing formal control. Because of this, consolidating and upholding non-interference through regional collective action continued to be an important goal of their joint foreign policy.

2. Assessing the observable implications

I now move to assessing the evidence for the observable implications. As with Latin America, I focus on the behaviors of human rights opponents and proponents that accord with the importance of self-determination but conflict with or are not accounted for by competing explanations. References to human rights opponents and proponents during this time are complicated somewhat by the fact that there were a number of states that were important proponents of human rights, in the sense of supporting the creation of institutions to enforce them and displaying relatively high levels of respect for human rights, but that were at the same governed by single-party dictatorships. In the 1970s and 1980s, this notably included Tanzania and Senegal, whose political systems were relatively humane and whose leaders were frequently advocates of human rights, but who denied many political rights to their citizens.

[22] Krishna Ramphul 1983: 372; Murray 2004: 3-6; Pick 1961: 76
[23] Duursma 2020; Gutteridge 1983: 24-25; Williams 2007
[24] Organization of African Unity 1963: Article II(c) and (d)
[25] Selassie 1963
[26] Krishna Ramphul 1983: 375; Umozurike 1979
[27] Gutteridge 1983: 24-25. Examples include condemnation of intervention by Israel in 1973, France in Djibouti and Comoros in 1976, and Israel in Uganda in 1976.
[28] Adebajo and Landsberg 2001; Muyangwa and Vogt 2000: 1

2.1. Pushing back against enforcement

Though there had already been attention from the West to human rights violations in *apartheid* Africa, pressure was first directed at non-*apartheid* African states after Amnesty International released reports in 1977. This occurred in the wake of the execution of an archbishop and two former government ministers in Uganda under the government of Idi Amin. These reports, alongside Amin's targeting of Americans living in Uganda, drew international attention to Idi Amin's wider abuses, eliciting a strong reaction from the West.[29] In 1977, officials in Carter's administration had noted "a certain myopia" from the United States government towards human rights violations in African states to that point.[30] However, Carter's administration soon began to target a number of African countries. Aid and trade were blocked to Uganda in 1978.[31] Aid was suspended to the Central African Republic in 1978 and to Mozambique, Angola, Zambia, and Tanzania in 1979. [32] By 1978, the U.S. had reduced food aid to Guinea and suspend aid to Ethiopia and had also voted against development loans to a number of African countries.[33]

As discussed in previous chapters, under the presidency of Jimmy Carter, the United States was the most prominent and arguably the most important Western government pressing for human rights in the late 1970s. The U.S. certainly had an important effect on international human rights enforcement, in general, including by influencing European governments to take action. At the same time, the United States was *not* the most important source of pressure for African countries and was relatively less involved and interested in the African continent.[34] Instead, past colonial relations meant that most of Africa's economic and development assistance came from Europe, and Europe was their most important trade partner and provider of non-reciprocal trade concessions. Beginning in the mid-1970s, a large proportion of this preferential trade and development assistance was governed by the Lomé Convention (Lomé), an association agreement governing the European Economic Community's (EEC) preferential trade and development assistance for their former colonies, known collectively as the African, Caribbean, and Pacific (ACP) states. Of these, African states made up a large majority, representing 47 out of 56 ACP states as of 1978.

Lomé became the most immediately consequential source of pressure for African states during this time. Following the 1977 reports on Uganda, European leaders came under considerable pressure to suspend development assistance to Uganda, and increasingly to other states that committed major violations of human rights. In response, in June 1977, the EEC issued the "Uganda Guidelines," stating that the EEC would "take steps within the framework of its relationship with Uganda under the Lomé Convention to ensure that any assistance…does not in any way have as its effect a reinforcement or prolongation of the denial of basic human rights."[35] Aid to Uganda was substantially reduced, and the aid that continued was redirected to ensure it went to only humanitarian causes.[36] They applied the same guidelines to Equatorial

[29] Fierro 2003: 45; Gertzel 1980: 464; Moravcsik 1995: 166; Oberdorfer 1977
[30] *FRUS* 2013, Document 627
[31] Fredman 1979; Rubner 2011: 196
[32] *FRUS* 2013, Document 53, 105; Rubner 2011: 187
[33] *FRUS* 2013, Documents 42, 104, 105, and 154
[34] Rubner 2011: 189-193
[35] King 1997: 55
[36] Fierro 2003: 45; Moravcsik 1995: 166

Guinea in 1978, in January and April 1979, to the Central African Empire, and in 1980 to Liberia.[37]

When it was first adopted in 1975, Lomé had been intended to represent a new type of relationship between European states and their former colonies, which would be conducted on the basis of partnership and equality. Because of this, European states took their contractual obligations under Lomé very seriously.[38] In fact, though they greatly reduced development aid to Uganda, they had attempted to do so in a way that upheld these obligations. This was part of the reason that other benefits, such as compensation for drops in the price of commodity exports, were not suspended, and Uganda continued to receive a great deal of economic assistance through other treaty mechanisms even after the Uganda Guidelines were applied.[39] Because of this, the Uganda Guidelines were not seen by European leaders as an adequate solution to the problem of bearing contractual obligations towards regimes that abused human rights.[40]

However, the Lomé Convention had been designed to be re-negotiated every five years, and the first round of renegotiations were scheduled to begin in 1978, offering European states an opportunity to change this. At a meeting between European and ACP ministers in June 1977, the European ministers announced their intention to add provisions to Lomé that would allow for suspension of cooperation for countries that violated human rights.[41] When renegotiations for Lomé began in July 1978, human rights emerged as a major point of contention.[42]

Pressure on European states to include human rights in the convention grew after Amnesty International released a report in April 1979, in the final months of Lomé negotiations, detailing a massacre of over 100 schoolchildren in the Central African Empire in response to student demonstrations over school uniforms. The report triggered public outrage throughout the West, including to its allegations that the Central African Empire's leader, Jean-Bédel Bokassa, was personally involved in the killings.[43]

The institutionalization of economic conditions as a method for enforcing human rights represented a direct challenge to African states' self-determination over human rights, imposing these policies broadly on all ACP states and removing their ability to meaningfully participate in their implementation. In fact, the addition of human rights conditions to Lomé was seen as especially objectionable because the convention was expressly intended to codify equality and partnership between the European and ACP states.[44] Some African states had privately expressed limited support for cutting aid in cases of especially egregious regimes like Amin's, but their support did not carry over to being made subject to these rules themselves via their broader institutionalization in Lomé.[45] The formal incorporation of these policies into the Lomé Convention would mean that all ACP states were subject to them, including states that had relatively good records of human rights and that viewed themselves as supporters of human rights.

The suggestion of incorporating a suspension clause into Lomé elicited a great deal of pushback from both states that were themselves violating human rights, as well as from states

[37] Arts 2000: 324-325, 423
[38] Ferrari 2015; Fierro 2003: 44-45; Marantis 1994: 6
[39] Fierro 2003: 44-46
[40] Fierro 2003: 43; Kamminga 1989: 28-30; Smits 1980: 50-51, fn23 p51; Young-Anawaty 1980: 65
[41] Arts 2000: 168
[42] Garnick and Twitchett 1979; Smits 1980: fn37 p53; Young-Anawaty 1980
[43] "Papa Bok is a millstone to France" 1979; "Vive la France?" 1979; Welch 1981: 406-408
[44] Bengtsson and Elgström 2012; Crawford 1996; Elgström 2000; Oyewumi 1991
[45] King 1997: 56; *FRUS* 2013, Document 42

that otherwise supported human rights. One European official involved in the negotiations noted in 1978 that "when others outside Africa took this question [of human rights] up, the automatic African reaction was to close ranks."[46] In fact, human rights emerged as one of the biggest sticking points during the re-negotiations of the treaty.[47] Their many objections included that this represented inappropriate interference in their domestic affairs, violated the convention's spirit of equality, was inherently one-sided, would be used as a guise for interference for political reasons, that human rights were more appropriately handled in the U.N., and that it was a violation of developing states' right to development and their self-determination.[48] U.S. activism was also responsible for some of the suspicion with which human rights were regarded by many African leaders during this time. Many had the sense that human rights were being used as a tool in Cold War ideological politics.[49]

In February 1979, during discussions of Lomé, one African representative and the co-chair of the ACP-EEC Joint Committee, one of the two parliamentary bodies, articulated the general sentiment expressed by the ACP states, asserting that the Europeans must "destroy the feeling that some ACP countries have that the Community was using human rights as a punitive term against them."[50] Throughout the negotiating period, ACP states regularly met amongst themselves to discuss and update their positions, and they emerged from each of these meetings with a unanimous position that the introduction of human rights into the convention was inappropriate.[51] After one such meeting, in an attempt to dampen the pressure on them, the ACP states adopted the Lusaka Declaration expressing their support for human rights. An ACP spokesperson later pointed to the declaration when reiterating "our concern for human rights is no less than yours," but that "any eventual agreement between us must be based on strict respect for equality between partners."[52]

In fact, throughout this time, the ACP states were nearly unanimous in opposing human rights language in the convention.[53] The ACP states almost always presented their positions as a united front, and there are few records of the positions of individual African states. However, what information exists shows human rights proponents objecting to adding human rights conditions to Lomé. For example, following the removal of the government of Idi Amin in late 1979, the new government of Uganda was extremely critical of both the O.A.U. and the U.N.'s failure to act to end the government's abuses,[54] asserting that "the United Nations could not remain silent when Governments…perpetrate atrocities against their own peoples."[55]

Yet, when asked about the inclusion of human rights provisions in the Lomé Convention less than a year after Amin was removed from power, a representative of Uganda expressed a lack of enthusiasm. He explained that ACP states were "very clear" that human rights should not be a part of Lomé, and that this was "not because they do not appreciate the need for protecting

[46] Quoted in Ferrari 2015: 228
[47] Smits 1980: 55 n37
[48] Arts 2000: 168; Young-Anawaty 1980; King 1997
[49] King 1997: 56; Young-Anawaty 1980: 80
[50] Arts 2000: 244
[51] Arts 2000: 168; European Commission 1978a: III, 1978b: II-III
[52] European Commission 1978b: II-III
[53] Arts 2000: 168; Stormorken 1984: 17
[54] Kannyo 1981: 18
[55] Ouguergouz 2003: 38; U.N. General Assembly 1979b: Para. 32

humanity."[56] The representative expressed concerns that "Once you put it in the Convention it is very easy, maybe by accident, to try to make use of it."[57]

In another case, a representative of Botswana, a country which had a strong, consolidated democratic government since its independence, stated that they objected to inclusion of human rights "due to the inappropriateness of the Convention as an instrument for its expression and implementation."[58] African states were also joined in their opposition by the Caribbean members of the ACP group, among the most consistently democratic in the Global South. They, too, were adamantly opposed to the addition of human rights considerations to trade and economic assistance, with one Jamaican representative asserting that human rights "has no place in an agreement dealing with trade and cooperation."[59]

The only record of a country offering support for adding human rights language to the Lomé Convention during the negotiations came from representatives of Senegal, a country that is widely acknowledged to have been an important advocate for and supporter of international human rights. However, what Senegal actually proposed was a mechanism to discuss and issue condemnations of human rights, not to rescind aid. The idea was that such a mechanism would apply equally to both European and ACP states, allowing for discussion and condemnation of human rights violations on both sides. André Guillabert, the Senegalese representative who introduced the proposal, noted that a "reference to human rights would be a powerful weapon for the ACP States in showing that Europeans did not respect the rights of the individual," a reference to Europe's mistreatment of migrants from ACP countries and perceived support for *apartheid* governments. The proposal received some initial support before being dropped in favor of excluding human rights from Lomé,[60] along with a cautionary statement that "when the time comes" to incorporate human rights, it "should not be used as a veiled pretext for interfering in the internal affairs of Member States."[61]

2.2. The normative shift from non-interference to African enforcement

In this section, I assess evidence regarding the timing of the creation, acceptance, and expansion of regional mechanisms for human rights enforcement. Prior to the onset of the pressures described above, African states, including proponents of human rights, were largely unwilling to compromise on the norm of non-interference. It was only after these pressures became widespread that they began to compromise on non-interference, creating regional institutions that with authority to interfere in states' internal affairs and emphasizing African regional approaches. Though these changes were driven by human rights proponents, human rights opponents became willing to accept these changes, to commit themselves to regional institutions, and to accept regional enforcement. At this time, a divergence opened up between willingness to engage with regional and global enforcement.

[56] European Commission 1980a: 24-25
[57] *Ibid*: 25
[58] European Commission 1983: IV
[59] Young-Anawaty 1980: 87 n106
[60] Stormorken 1984: 17
[61] ACP-EEC Consultative Assembly 1978: 8

2.2.1. Resistance to human rights that compromised on the norm of non-interference

It is not correct to say, as some have, that the O.A.U. and African states were uninvolved in human rights in their first decades after independence. Some of the core activities of the O.A.U. through the late 1970s were directly focused on human rights promotion in the form of ending *apartheid,* colonization, and racial discrimination. However, it *is* accurate to say that African states largely refrained from engaging with human rights in ways that involved interference in the domestic affairs of O.A.U. member states. As a result of the importance placed on non-interference and their focus on human rights violations of an international nature, there was very little attention paid during the first decades after decolonization to the domestic human rights practices of O.A.U. member states, and there was no regional institutionalization of human rights that involved compromising on non-interference.

Some of this inattention to violations of human rights by member states stemmed from clashes between regional and global understandings and priorities surrounding human rights. Human rights scholarship on African has focused on how an "African conception" of human rights has tended to value the community, including one's duties to the community, to a greater degree than more individualistic Western conceptions.[62] They have also pointed to how Africa, like other regions in the Global South, has placed relatively greater emphasis on economic and social rights.[63] As I discussed in Chapter 4, these differences also extended to their emphasis on an international model of human rights. This was focused on self-determination and economic development, with the source of violations of these rights seen as originating from outside of the African continent. This view extended to democracies and supporters of human rights, who were among the actors that expressed the sentiment that problems of *apartheid*, incomplete decolonization, the undermining of political independence, and under-development were the most important human rights issues facing the African continent.[64]

The O.A.U. Charter, which was signed into force in 1963, contained few references to human rights that could be applied to member states themselves, and the references that it did include were vague and lacked enforcement mechanisms. These include a reference in the charter's preamble to that fact that the signatories are "Persuaded that the Charter of the United Nations and the Universal Declaration of Human Rights, to the Principles of which we reaffirm our adherence, provide a solid foundation for peaceful and positive cooperation among States." Among the organization's purposes is "promot[ion of] international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights."[65]

Two exceptions to the lack of internal attention on human rights occurred prior to the formation of the O.A.U. and came from advocates of the creation of a single, unified African state. In 1958 at the meeting of the All-African Peoples' Conference, organized by the Casablanca group which, as discussed above, advocated the creation of a united Pan-African state, included a proposal for an African human rights committee as part of an effort to provide "an example to imperial nations who abuse and ignore the extension of…rights to Africans."[66] However, the idea of a commission was not pursued further, and there is no mention of it in the

[62] Ake 1987; M'Baye and Ndiaye 1982: 588-589; Viljoen 2007: 305
[63] Ibhawoh 2018: 176; M'Baye and Ndiaye 1982: 592-593
[64] Adebajo and Landsberg 2001: 3; Getachew 2019; Klotz 1995; Krishna Ramphul 1983: 384; M'Baye and Ndiaye 1982; Mohan and Holland 2001: 180; Murray 2004: 7-9; Obasanjo 1985: 85; Ouguergouz 2003: 43; Rubner 2011; Shivji 1989: 70
[65] O.A.U. Charter 1963: Preamble, 1(e)
[66] All-African Peoples' Conference 1958: Conference Resolutions on Imperialism and Colonialism, Para. 7 and 9

documentation from the next meeting in 1960, though they did discuss human rights violations by colonial powers and *apartheid* states at length.[67]

Another example came from Nnamdi Azikiwe, the first president of Nigeria, who proposed an African Convention on Human Rights in 1962. Azikiwe noted that the convention "should define in detail all the fundamental liberties of the citizen which shall neither be abridged nor denied to the African, except under due process of law; and it should make it clear that the African has an inalienable right to free speech, free press, freedom of assembly, freedom of association, freedom of movement, freedom from discrimination, freedom from want, freedom from inhuman treatment, freedom from slavery or forced labour, and freedom of conscience and worship."[68]

In the first case, the proposal for a human rights commission came from African leaders that were pushing for the creation of a single, united African state. It was not exactly an example of a willingness to compromise on non-interference within Africa, as the idea was proposed in the context of the group's call for a single, united African state. The commission would have been a domestic mechanism within a single, continental African state. Additionally, both proposals subsided after African states consolidated around intergovernmental cooperation between independent states.

In general, throughout this time, strict adherence to non-interference among African leaders meant that major human rights violations in the region went largely unremarked on within the O.A.U. This included mass killings that occurred during the Biafran separatist conflict in Nigeria from 1967 to 1970; ethnic violence resulting in the death of over 150,000 Hutu in Burundi in 1972 and 1973; numerous instances of mass expulsions of migrants; and, in addition to the brutal and violent government of Uganda throughout the 1970s, similarly violent governments in Equatorial Guinea and Central African Empire (now Republic).[69] Leaders also largely shielded one another from scrutiny and condemnation in international forums by acting collectively with other non-aligned states.[70]

The large number of authoritarian governments in the region during this time was surely at least somewhat responsible for the lack of interest in creating a regional human rights system aimed at policing the behavior of member states. However, democracies and human rights supporters also did relatively little to push for regional human rights mechanisms or enforcement during this time. In fact, of the very few examples of African states speaking out about human rights abuses committed by their fellow Africa leaders, democracies and states that were otherwise disposed towards human rights often did not take part.

An example of the ambivalence towards compromising on non-interference on the part of human rights proponents took place during the Biafran civil conflict in Nigeria, whose large-scale loss of life attracted a great deal of international attention. Throughout this time, Tanzania, Gabon, Cote d'Ivoire, and Zambia were the only states to publicly object to the actions of the Nigerian government, supporting the self-determination claims of the Biafran separatists.[71] By contrast, Senegal, Mauritius, the Gambia, Botswana, and Somalia, all democracies, maintained their silence. The Biafran situation also demonstrated the overwhelming emphasis on non-interference within the O.A.U. The international attention on Nigeria provoked concerns that

[67] All-African Peoples' Conference 1960
[68] "Nnamdi Azikiwe, 'The Future of Pan-Africanism'" 2009
[69] Weinstein 1976: 17-18
[70] Tolley 1984; Weinstein 1976; van Boven 1977
[71] Muyangwa and Vogt 2000: 6

Western powers would intervene in the situation. This concern led the O.A.U. to break from its usual position of staying out of internal conflicts, establishing an *ad hoc* group of heads of state to attempt to mediate.[72] Yet, they remained highly constrained by non-interference norms, adopting and never wavering from the position that what was needed was to "preserve the unity and territorial integrity of Nigeria."[73]

Additionally, with few exceptions, African states strictly abided by the norm of non-interference throughout the course of Idi Amin's rule in Uganda. When Amin first came to power in 1971 through the violent overthrow of the previous government, the O.A.U. Council of Ministers was initially unwilling to admit the Ugandan delegation to the meeting, but quickly changed their stance.[74] In the years that followed, with very few exceptions, African leaders were publicly silent about the violence committed by Idi Amin's government. One notable exception occurred in the lead-up to the 1975 annual meeting of the O.A.U.'s Assembly of Heads of State and Government. The meeting was scheduled to be held in Uganda, in spite of what was by then common knowledge of the massive violations of human rights being committed. The governments of Tanzania, Zambia, Botswana, and Mozambique opposed holding the meeting there. The leaders of these states, with the exception of Mozambique, boycotted the meeting, though again, other human rights proponents and democracies, including Senegal, the Gambia, and Mauritius, remained silent. In fact, Julius Nyerere, the leader of Tanzania and Uganda's neighbor, came to be outspoken about the situation in Uganda and critical of what he deemed the hypocrisy of African governments for condemning *apartheid* and colonialism while saying nothing about human rights abuses among their own.[75] In 1979, Nyerere took advantage of the escalation of a border dispute to invade Uganda and overthrew Amin's government.

The response to the invasion was another rallying around the norm of non-interference. At the meeting of the O.A.U. which occurred just months after Amin was removed from power, much of the meeting was spent condemning Nyerere for violating the norm of non-interference.[76] Idi Amin's successor Godfrey Binaisa spoke at the meeting, condemning the other member states for their inaction in the face of Amin's brutality and highlighting human rights abuses in the Central African Empire. His comments were stricken from the record by the meeting's chair.[77]

Throughout the 1960s and 1970s, there were no institutional developments aimed at promoting or protecting internal African human rights, apart from *apartheid*. Efforts to encourage the creation of regional institutions by civil society and under the aegis of the United Nations had little effect. Conferences organized by NGOs were largely ignored by African leaders,[78] and participation by African government representatives in U.N. conferences resulted in proposals for promotional or educational activities within the region. With a few exceptions, participants stressed that the newly independent African states were not prepared to give up any sovereignty.[79]

Human rights proponents offered only inconsistent and limited support for regional human rights enforcement prior to the onset of challenges to self-determination, while states overwhelmingly deferred to the norm of non-interference. As late as 1977, the Prime Minister of

[72] Krishna Ramphul 1983: 381-382
[73] *Ibid*: 381-382
[74] Welch 1981: 402-404
[75] Kannyo 1981: 16
[76] Dash 1979; Kannyo 1981: 18; Ouguergouz 2003: 39; Rubner 2011: 265
[77] Ouguergouz 2003: 38
[78] Rubner 2011: 229-244
[79] Ouguergouz 2003: 29-31; Rubner 2011: 218-229

Mauritius, then one of Africa's few democracies and two years later one of the co-sponsors of the resolution calling for an African human rights system, asserted to the U.N. General Assembly that, while the "denial of human rights is still widespread, …[r]ather than criticizing others, it would be better that we each put our own house in order."[80]

2.2.2. Creating, accepting, and expanding regional human rights mechanisms

It was in response to challenges to their self-determination over human rights which began in 1977 that African states became willing to collectively move to compromise on the norm of non-interference. This proceeded in two parts. States first created and accepted the African human rights system between 1979 and 1981, which then came into effect in 1986. This first move towards compromising on non-interference occurred in response to the broad shift towards targeting African states for economic pressure and, specifically, to the attempt by members of the European Economic Community to add human rights conditions to the Lomé Convention. The move to create an African system initially succeeded in dampening the pressure on African states. However, once the Cold War ended, this pressure became much stronger and more consistent. This resulted in a period of expanding the regional system, with African states delegating more authority and increasing cooperation with regional human rights enforcement.

2.2.2.1. Initial creation and acceptance of the African regional system

Once they began to face challenges to their self-determination over human rights, in the course of just a few short years, African states quickly came around to supporting regional human rights mechanisms. Beginning in 1977, a number of African proponents of human rights began efforts to push for systems for promoting and protecting human rights that compromised on non-interference, beginning with the call by Nigeria's government for regional arrangements in the United Nations and the attempt by the Gambia to create a human rights commission in the Commonwealth of Nations.[81]

The first move by African states towards creating African human rights institutions within the O.A.U. occurred in 1979, in the midst of the renegotiations of the Lomé.[82] Simply rejecting the addition of human rights as interference in their domestic affairs had not succeeded in bringing an end to efforts to add a suspension clause. By mid-1979, after nearly a year of negotiations, human rights remained a major sticking point.[83] The African position against adding human rights was had been more difficult by the renewed international outrage over the Amnesty International reports of human rights violations in the Central African Empire, which were released in April that year.

In July 1979, in the final months of the renegotiations for the Lomé Convention, the O.A.U.'s Assembly of Heads of State and Government held its annual meeting, during which Léopold Senghor, the president of Senegal and one of the strongest proponents for human rights in Africa, introduced a resolution calling for the drafting of an African human rights charter and

[80] U.N. General Assembly 1977g: Para. 43
[81] Kirby 2021; Ouguergouz 2003: 32
[82] There was discussion of creating a human rights department within the O.A.U. at a symposium sponsored by the O.A.U. secretariat in February 1979, but this meeting was not attended by any governments, and so I do not consider it as a starting point for the willingness of states to create regional human rights mechanisms (Ouguergouz 2003: 38-39 n143).
[83] Smits 1980: 53 n37

a regional body to promote and protect human rights. In a significant departure from the norm of non-interference, and from all previous practice within the O.A.U., the Assembly unanimously adopted the resolution.[84]

This occurred in spite of the fact that many African leaders remained opposed to bowing to pressure to accept human rights. In fact, the proceedings of the meeting do not point to a situation that was "ripe" for a regional human rights system. Nor does it suggest one in which opponents of human rights schemed to devise a regional system to shield themselves from outside scrutiny. Instead, the impetus for the regional system came from actors that wanted to see a real human rights system in place and who wanted that system to be an indigenous African initiative, rather than a program forced from the outside. These included, of course, Léopold Senhor of Senegal, who tabled the resolution. It also included Keba M'Baye, the respected jurist who advocated behind the scenes for the resolution under the aegis of the International Commission of Jurists; William Tolbert, the president of Liberia, who supported the resolution and who, as host of that year's meeting, opened the meeting by calling for an end to deference to non-interference; and Edem Kodjo, the Secretary General of the O.A.U. The governments of Nigeria, Mauritius, Uganda (post-Idi Amin), and the Gambia, all human rights proponents, also offered support to the resolution.[85]

Yet, to pass, the resolution had to be accepted by a much larger number of human rights opponents. It is important to recall that the governments accused of major human rights violations in the Central African Empire and Equatorial Guinea were still in power and were thus among the states that agreed to adopt the resolution. Additionally, socialist states had adopted the view that the growing pressure to accept human rights was Western, Cold War propaganda. The proceedings of the meeting at which the resolution was adopted demonstrate that the idea of compromising on non-interference in response to human rights violations was still very much contested. Sekou Touré, the outspoken socialist leader of Guinea, asserted that the O.A.U. was not "a tribunal which could sit in judgment on any member states' internal affairs."[86]

Additionally, as discussed above, this meeting took place in the immediate aftermath of Tanzania's invasion and overthrow of Idi Amin's government in Uganda, and much of the time was spent condemning the government of Tanzania for violating the norm of non-interference. After the new government of Uganda took the floor and criticized the human rights violations that were still being committed in Equatorial Guinea and the Central African Empire, as well as the O.A.U. for its inaction in the face of human rights abuses, the comments were stricken from the record.[87] Nevertheless, states were willing to agree to the human rights resolution.

The initial drafting of the charter proceeded quickly. The O.A.U. resolution had called for the establishment of a group of experts to draft the African charter, who convened in November and December of that year. M'Baye, one of the experts on the committee, produced the draft document that formed the basis of their discussion, and an amended version of the charter was completed in December. It was at this point that the notorious "clawback clauses" were added to the charter, which subordinated many of the rights to national law[88] (e.g. "Every individual shall

[84] Jallow 2007: 24
[85] Dash 1979; Jallow 2007: 24; Ouguergouz 2003: 38-39; Rubner 2011: 248-262
[86] Rubner 2011: 261; Umozurike 1983: 902-903
[87] Dash 1979; Kannyo 1981: 18; Ouguergouz 2003: 39; Rubner 2011: 265
[88] [Dakar Draft] African Charter on Human and Peoples' Rights 1979

have the right to free association provided that he abides by the law"[89]). The draft was then sent along to states to begin the process of approval and adoption.[90]

This initiated a period of foot-dragging on the part of state governments that opposed the creation of a human rights system. The process of adopting the charter was to go as follows: a special meeting of government ministers would review and potentially amend the charter before approving and sending it to the O.A.U. Council of Ministers for discussion and approval. The Council of Ministers was a permanent decision-making organ of the O.A.U. which would discuss and approve resolutions and decisions in advance of meetings of the Assembly of Heads of State and Government, O.A.U.'s highest decision-making body. Accordingly, upon adoption by the Council of Ministers, the charter would be sent for final adoption by the Assembly of Heads of State and Government, at which point it would be open for signature and ratification.

The first step in this process, the meeting of governmental ministers, was scheduled for March 1980 in Addis Ababa. The Ethiopian government, which was hosting the meeting, was among the socialist governments that opposed the project of human rights as Western, Cold War propaganda, and the government refused to approve visas for a number of the delegations.[91] Between that, and other states simply not showing up for the session, the meeting failed to reach a quorum and did not proceed.[92] It was then rescheduled, with the new meeting to be held in the Gambia, a country whose government was much more supportive of human rights and the creation of a regional system. However, the meeting, held several months later, was again unsuccessful.[93] Hassan Jallow, one of the experts on the drafting committee, recalled later that the meeting was acrimonious, while another attendee noted that the "general atmosphere" suggested that many did not want a charter to be created.[94] There was prolonged debate over the preamble and individual articles, and the meeting succeeded in approving only eleven articles by the end, in spite of the fact that those eleven articles barely changed from the original draft.[95]

This led to the scheduling of yet another meeting, again in the Gambia, in January 1981. Prior to the meeting, the O.A.U. Council of Ministers intervened and adopted a decision "urg[ing]" the government ministers "to deploy every effort to complete the…Draft Charter and to ensure that the final draft is submitted to the Eighteenth Assembly of Heads of State and Government" the following year.[96] The resolution had the intended effect, and this meeting was much more successful. The charter was finally approved, though some of the commission's powers were watered down at this time.[97] One delegate wanted the enforcement mechanisms of the Commission to be part of an optional protocol rather than an integral part of the treaty, though this proposal was not adopted.[98]

When the charter was passed on to the Council of Ministers meeting later that year, a number of state representatives still registered concerns regarding the powers of the commission.[99] They noted, in particular, that the charter "did not make it clear that the

[89] African Charter on Human and Peoples' Rights, Article 10.
[90] Jallow 2007: 25-31; Ouguergouz 2003: 40-43; Rubner 2011: 276, 279-282, 286
[91] Rubner 2011: 287
[92] Jallow 2007: 35; Ruber 2011: 287
[93] Jallow 2007: 35-36, 38-42; Ouguergouz 2003: 44-45; Rubner 2011: 288-290
[94] Ouguergouz 2003: 45
[95] Jallow 2007: 42; Welch 1981: 420
[96] O.A.U. Council of Ministers 1980; Jallow 2007: 43
[97] Jallow 2007: 45-47
[98] Ouguergouz 2003: 46 n178
[99] Jallow 2007: 50-51; Ouguergouz 2003: 47

Commission does not have the authority to interfere with the internal affairs of the OAU member States," nor did it make clear that the "sole right of interpretation [of the Charter] should be invested entirely with the Assembly of Heads of State and Government."[100] They passed the draft charter along to the Assembly along with their concerns. In spite of these concerns, the Assembly adopted it unanimously and without amendment.[101]

This marked the point at which African states shifted away from arguing against human rights as a violation of the norm of non-interference to their arguing that African states should be left to handle their own human rights issues within their regional organizations. Their reluctance at institutionalizing human rights within the O.A.U. was outweighed by the increasing sense among African leaders that human rights enforcement was now a foregone conclusion and that, if Africa was going to become subject to human rights law and its enforcement, it should be through an African initiative.[102] In fact, the importance of having an *African* human rights system was stressed repeatedly, including by Léopold Senghor and O.A.U. Secretary General Kodjo.[103] This was a concern that united both proponents and opponents of human rights in the region and overcame opponents' reluctance.

Having adopted the charter, states moved to ratify it, often in response to external pressure or in an effort to improve relations with the West. In 1982, Guinea ratified the charter as part of Sekou Toure's attempts at rapprochement with the West, which included liberalization of the economy and a trip to the United States and France in search of economic assistance that same year.[104] Liberia ratified the treaty in 1982, two years after the violent overthrow of the previous government, and while the new and highly repressive Samuel Doe government was attempting to maintain positive relations with Western states. In 1983, Nigeria ratified the African charter in response to Western criticism of its decision to expel Ghanaian immigrants.[105] In 1986, Omar Bongo of Gabon, a long-time dictator and close client state of France, ratified the charter alongside a number of domestic reforms following an increase in pressure on the French government from domestic human rights activists and as the government was seeking a loan from the IMF.[106] Burundi ratified the charter in 1989 in response to Western pressure over an outbreak of ethnic violence. By 1986, the charter had come into effect after being ratified by 30 states, the majority of which were authoritarian governments with poor human rights records.[107]

It is likely the case that, during this time, the O.A.U. represented less of a threat to African governments than other forms of enforcement. In fact, the African commission did not come into existence until 1987, and the O.A.U.'s intergovernmental bodies did not act on human rights during this time. Nevertheless, both the adoption of the charter and its ratification by individual states during this time was a significant shift away from rejecting human rights enforcement as a violation of the norm of non-interference and towards agreeing that interference for the sake of human rights was permissible. The charter, and the powers that it gave to the commission, was accepted in spite of the concerns registered by many African states that it violated the norm of non-interference.

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[100] Quoted in Gittleman 1981: 669 n10. Jallow 2007: 50; Ouguergouz 2003: 47, 47 n182
[101] Jallow 2007: 49-55; Ouguergouz 2003: 47-48; Rubner 2011: 294
[102] Rubner 2011; Ouguergouz 2003: 40
[103] Jallow 2007: 26-30, 39; Rubner 2011: 274; Umozurike 2007: 181
[104] Blackburn 1984; Rondos 1983: 9; Pomonti 1982
[105] "Nigerian Minister's criticism of Western and Ghanaian media" 1983
[106] Reed 1987; "Return to Gabon of member of 'government-in-exile.'" 1985; "Gabon Nears Accord With IMF." 1986
[107] Of the 30 states that ratified the treaty by 1986, 22 had a Polity score of -7 or lower the year of ratification.

2.2.2.2. The early human rights system and meeting external expectations

There is evidence that the design of the African charter and commission—both the fact that it compromised on non-interference and the design of individual features—were motivated by the attempt to meet external expectations of appropriate implementation in order to successfully establish regional authority over human rights. The system as it was adopted bears significant signs of the tension between the need to meet external expectations of appropriate enforcement in the face Western pressure, on the one hand, and the preference of many states to not compromise on their sovereignty, on the other.

This tension is reflected in the content of the charter. The African Charter has received criticism for falling short of expectations, especially because of the inclusion of "clawback clauses," which subordinate many rights to national law. Yet, there are no such clauses for physical integrity rights, such as the right to life and prohibition against torture, which appear without the qualification. For example, the provision on the right to life states that "Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right."[108] This is notable because in the late 1970s and early 1980s, physical integrity rights were the primary focus of international advocacy. In other words, where African states were under the most pressure, they gave themselves the least space for national discretion.

This tension is also reflected in the design of the African Commission on Human and People's Rights, including the Commission's independence. Commissioners are supposed to have competence in the area of human rights and, more importantly, to serve in their personal capacity, not as state representatives. However, there are also limits to this independence. The initial drafters added language expressly prohibiting government officials from serving as commissioners, though this prohibition was removed by state representatives during the approval process. Additionally, the commission's work is subject to approval and publication by the O.A.U.'s intergovernmental bodies.[109] However, as will be addressed in the next section, this base level of independence has made it possible for the Commission to expand its own powers considerably.

In terms of the form of implementation, perhaps the most striking example of this tension is the fact that the charter gives to the commission the power to receive what it terms "other communications."[110] The charter does not clarify what these communications might consist of, though an individual petition system was already a common feature of human rights commissions by this time, with this authority made part of the International Convention on Civil and Political Rights (ICCPR) in 1966 and in the U.N. Commission on Human Rights in 1967. It is clear that this was originally intended as an individual petition system, as such a system was in the original draft written by M'Baye. It was then changed to refer to "other communications" during the first round of the drafting process.[111] It is unclear what else could have been intended by this provision other than granting the commission the ability to receive complaints of violations of the charter from individuals, especially since the charter separately and expressly establishes the power to receive inter-state communications.

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[108] Organization of African Unity 1981: Article 4.
[109] Kannyo 1981: 18
[110] Organization of African Unity 1981: Article 55-56
[111] Compare [Mbaye] Draft African Charter on Human and Peoples' Rights (1979) and [Dakar Draft] African Charter on Human and Peoples' Rights (1979).

In fact, it was immediately interpreted by the commission as allowing it to receive communications from not only individuals, but also NGOs. The vagueness of this provision is puzzling, but it makes sense as an artifact of a difficult compromise with states that did not want any human rights enforcement. Also notable is the fact that this petition system is included as a non-optional part of the African Charter. By contrast, to allow individual petitions within the ICCPR, states must ratify a separate protocol.

This is not to say that the African system established at this time was as challenging to state sovereignty as other systems that were in existence or as advocates might have preferred. However, compared to what might have been predicted based on state attitudes towards sovereignty and human rights at the time, it was a surprising concession. States delegated more authority than might have otherwise been expected, and they delegated authority that they themselves regarded as challenging. Additionally, by simply adopting the charter and regional system, African states had made a significant rhetorical concession, accepting the legitimacy of international interference in their domestic affairs for the sake of human rights. This was picked up on by European observers, who noted that "ACP countries are willing to admit now, particularly since…the OAU's adoption of a human rights charter" that international attention to their own human rights was sometimes warranted.[112]

This initial system was relatively effective at blunting the pressure African states received in the form of economic conditions from European states, especially as their Cold War concerns continued to compete with human rights for priority in their engagement with Africa.[113] In October 1979, just three months after African states adopted the resolution calling for an African human rights system, the final negotiation session for the Lomé Convention was concluded. Discussion of adding human rights provisions to Lomé was dropped, and the new agreement was finalized.[114] Afterwards, the E.E.C. Commissioner expressed regret about the absence of human rights provisions in the agreement. However, he noted that the decision by African heads of state to create a human rights charter was "exactly what we wanted to say and show to our peoples."[115]

In November 1979, one month after the renegotiated convention was signed, the European Community adopted an internal statement announcing its intention to generalize the Uganda guidelines and employ sanctions in cases of human rights violations,[116] and the E.E.C. Development Commissioner announced publicly that the European Community had decided to apply human rights in their relations with other countries "without exception."[117] Through the 1980s, Western leaders continued to demonstrate an interest in human rights, including by pushing again in 1983 to add human rights language to the next iteration of the Lomé Convention.[118] In 1986, the European Community Foreign Ministers issued a formal policy statement on human rights, affirming them as an "important element" in the "development of their relations with non-member States as well as in the administration of aid."[119] The European

[112] European Commission 1983
[113] Fierro 2003: 49-50; Pflüger 1989: 707
[114] Young-Anawaty 1980: 92-93
[115] Quoted in Young-Anawaty 1980: 92-93 n127
[116] Arts 2000: 174-175
[117] European Commission 1979: 4
[118] Hill 1985
[119] Arts 2000: 119-120

Parliament continued to press for the European Community to take human rights into greater consideration in its economic relations.[120]

Yet, with the exception of severing Lomé cooperation with Liberia in 1980, through the 1980s, European states refrained from suspending existing agreements or projects outright. Instead, they would sometimes delay or choose to not approve new projects in countries where there were human rights concerns.[121] For example, in 1987 the EC decided to withhold approval of a $52 million project for Burkina Faso.[122] There were also instances of behind-the-scenes pressure in the course of trade negotiations to push for greater observance of human rights,[123] as well as constant pressure from the European Parliament.[124]

2.2.2.3. The end of the Cold War and expanding the regional human rights system

Once the Cold War started to wind down, European states began to widely pursue aid conditionality aimed at promoting human rights and democracy within the region.[125] They became less willing to accept superficial engagement with the African regional system as an alternative to suspending economic cooperation. As a result, African states moved to expand the regional system. This happened as the end of Cold War-era superpower competition left Africa increasingly marginalized from global politics.[126] Importantly, marginalization did not mean a simple lack of interest in Africa or an end to interference. It meant that the voices of African governments were increasingly ignored, as the concerns Western states had about protecting alliances with African states collapsed.

As discussed above, throughout the 1980s, European states had applied pressure, but had otherwise refrained from suspending Lomé outright, with the exception of Liberia in 1980. As the Cold War came to an end, European states began to regularly suspend economic cooperation with African states, both within the E.E.C. and in their bilateral relations in response to human rights violations.[127] In 1990, Lomé cooperation was suspended on three occasions, to Liberia, Sudan, and Somalia. In 1991, there were an additional five instances of suspension, followed by four in 1992, three in 1993, and another four in 1994.[128] Their interest in human rights also expanded to include a wider range of civil and political rights, in addition to physical integrity rights.

African states again objected to these measures, even as liberalization swept the African continent. Again, objections came from proponents of human rights. In 1990, Nelson Mandela visited Kenya, whose leader was under pressure from Western governments to conduct multi-party elections. Mandela was quoted as criticizing this pressure, asking "What right have the whites anywhere to teach us about democracy, when they executed those who asked for democracy during the time of colonial rule?"[129] In 1990, the O.A.U. issued a resolution

[120] Arts 2000: 251; Boumans and Norbart 1989: 137; Kemps 1984
[121] Kamminga 1989: 33
[122] Marantis 1994: 7 n30
[123] European Parliament 1993: 4
[124] Arts 2000: 251; Boumans and Norbart 1989: l37; Kemps 1984
[125] Adebajo and Landsberg 2001: 4; Bekker 2007: 159; Crawford 1996; Marantis 1994; Murray 2004: 25, 43-44;
[126] Muyangwa and Vogt 2000: 1
[127] Bekker 2007: 159; Hazelzet 2005; Krab-Johansen 1995; Marantis 1994; van Cranenburgh 1995
[128] Numbers are taken from compilations of uses of negative conditionality by Arts (2000: 423-426) and Hazelzet (2005: 4-5).
[129] Alcindor 2003

expressing concern at the "increasing tendency to impose conditionalities of political nature for assistance to Africa."[130] In an address in 1994, the President of the ACP Council expressed concern that "punitive measures" for addressing human rights problems can be "dysfunctional."[131] In 1995, during an interview with the President of Namibia, a country with a relatively positive record of human rights and democratic governance, was asked about the use of human rights conditions on aid. The president replied that "We do not want to be subjected to this kind of thing by foreigners…for them to impose their foreign policy because of aid is deplorable."[132]

Their protests against the use of economic sanctions in response to human rights violations had little effect on Western policy, and as this progressed, African states began to engage more deeply with the regional human rights system. From 1989 to 1992, an additional fifteen states ratified the African Charter. African states also became willing to cooperate with the African Commission and allow it to conduct on-site investigations, including under the Special Rapporteur system and the commission's promotional mandate, as well as fact-finding missions in response to individual complaints.[133]

This was in spite of the fact that, at this same time, the Commission began to expand its role and assert its independence. In 1989, the Commission clearly interpreted the Charter's vague language permitting it to receive "other communications" to mean communications from individuals and NGOs, including NGOs from outside of Africa. It has also ignored the provisions in the charter limiting how the Commission deals with individual communications, which require them to bring complaints to the attention of the Assembly of Heads of State and Government and wait for instruction to do anything about them.[134] It interpreted the "clawback clauses" that subject individual rights to national law as requiring domestic legislation to be consistent with international human rights law.[135] The Commission created a system of "special mechanisms," including special rapporteurs and working groups, as well as a system for provisional measures, in spite of none being specified by the charter, and they asserted and applied the principle of unenumerated rights, which holds that there are rights that are implied but not expressly stated by the charter.[136] African states did not act to limit these assertion of powers, and they continued to cooperate with the commission. In 1991, they began to publicly release the African Commission's annual reports, though, at the time these reports did not have any controversial content. However, in 1994, the Commission began to include its findings on individual communications in the annual report, which African states continued to release.[137]

African states also began to act on cases of human rights violations in their intergovernmental bodies. In 1991, for the first time, they began issuing decisions and resolutions on internal situations related to human rights violations. That year, they issued a resolution on the conflict in Liberia, giving support to the ECOWAS peacekeeping mission and expressing "profound sympathy and solidarity with the people of Liberia." The resolution requested the international community to provide "all necessary assistance to the interim

[130] Assembly of Heads of State and Government 1990
[131] European Commission 1994: II
[132] European Commission 1995: 35
[133] Viljoen 2007: 344-348
[134] Heys 2004: 694-695; Viljoen 2007: 325-326
[135] Heyns 2004: 688-689
[136] Viljoen 2007: 325-326, 346-349, 370-379; Heyns 2004: 691
[137] Mutua 2000: 19-20; Odinkalu and Christensen 1998: 277

Government and the people of Liberia."[138] In the next few years, there were also resolutions passed on the internal situations in Angola, Sudan, Somalia, and Burundi which made expressed concern and consternation over the suffering of civilians and mass killings.[139]

There was also growing sub-regional activity aimed at institutionalizing human rights at this time. In 1991, ECOWAS adopted the Declaration of Political Principles of the Economic Community of West African States, in which the member states agreed to respect human rights.[140] Within a few years, member states of a number of sub-regional organizations adopted revised statutes of their sub-regional organizations to include references to human rights. These included the Southern African Development Community (SADC) in 1992; ECOWAS, the Common Market for Eastern and Southern Africa (COMESA), and the Economic Community of Central African States (ECCAS) in 1993, and the Central African Economic and Monetary Community (CEMAC) and the West African Economic and Monetary Union (UEMOA) in 1994.

These developments continued over the coming years. The African Court on Human and Peoples' Rights was adopted in 1998 and came into effect in 2004. In the late 1990s, states began the process of institutionalizing the responsibility to protect into the reconstituted African Union.[141] These changes, of course, cannot be removed from the context of the genocide in Rwanda in 1994. However, what should be clear is that the genocide occurred in the midst of changes that were already happening in the region, accelerating changes that were well underway rather than initiating a reorientation towards human rights and norms of non-interference.

In fact, by the time the genocide began, there was no question for African states as to whether international intervention was an appropriate response. Throughout the genocide, African states and the O.A.U. Secretary General pleaded with the members of the U.N. Security Council to take action, including by pushing to expand the size of the U.N. peacekeeping mission and offering African troops, at a time when Western states were attempting to shrink the mission or remove it altogether.[142] This was followed in quick succession by a similar failure to fulfill requests for a U.N. peacekeeping force in response to the 1994 genocide in neighboring Burundi.[143] Additionally, while these changes occurred alongside regional political liberalization, states that were not themselves liberalizing cooperated with regional enforcement, and all states continued to push back against the addition of a human rights suspension clause to Lomé.

2.3. Global-regional divergence

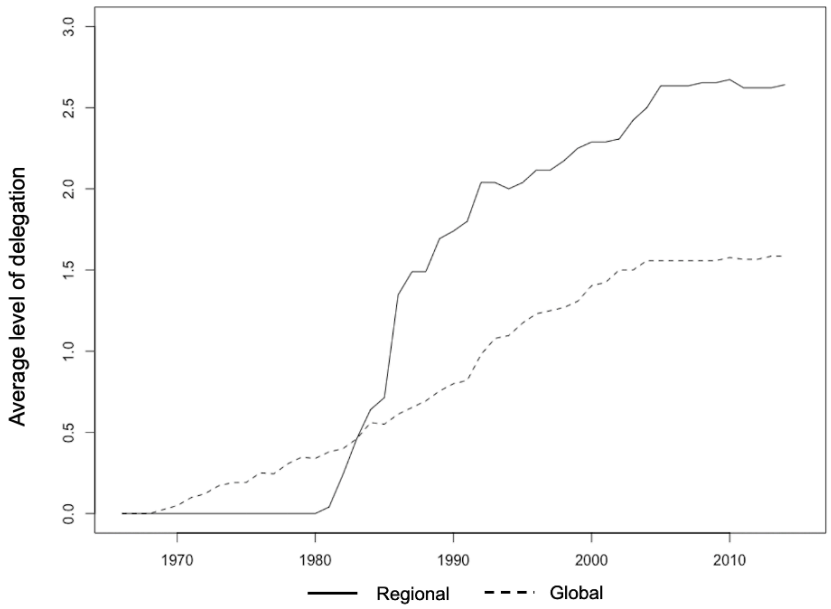
Similar to the case of Latin America, the willingness on the part of African states to ratify regional treaties accepting human rights enforcement contrasted with their ongoing reluctance to delegate authority to other international bodies. To compare levels of delegation within and outside of the region, I rate all treaty-based global and regional mechanisms on a scale of zero to three, where zero indicates that the state has not ratified a human rights treaty and three indicates they have accepted authority for an enforcement body to make binding decisions on individual human rights allegations. This coding accounts for the fact that a state that has ratified the

[138] O.A.U. Council of Ministers. 1991
[139] O.A.U. Assembly of Heads of State and Government 1993; O.A.U. Council of Ministers 1992, 1994a, 1994b
[140] Hartman 2013: 13-15
[141] African Union 2001: 4(h)
[142] Muyangwa and Vogt 2000: 11-12; International Panel of Eminent Personalities 2000: 15.11, 15.13, 15.88, 15.89-91
[143] Murray 2004: 11-12

ICCPR consents only to periodic self-reporting to the U.N. Human Rights Committee, whereas by ratifying an optional protocol to the ICCPR, they empower the committee to receive and make non-binding recommendations on individual human rights complaints, considered an essential part of enforcing human rights. The African Charter on its own includes authority to issue non-binding findings on individual petitions, and only at the regional level is there the possibility of binding decisions on human rights violations via international courts.

The amount of authority delegated to the O.A.U. quickly overtook the amount of authority delegated to the U.N., and gap only grew wider as African states created additional mechanisms for enforcing human rights. This included the creation of the African Court on Human and Peoples' Rights in 1998 and the expansion of the authority of the ECOWAS Community Court to hear and decide on individual human rights complaints.[144] As shown in Figure 7.1, the average of delegation to the O.A.U. overtook average delegation to the U.N. in 1984 and has remained substantially higher since then.

Figure 7.1. Regional vs. global delegation by O.A.U. member states



If this divergence were driven by states hiding behind weaker mechanisms, we would still expect to ratification of the Optional Protocol by African democracies and African states with relatively positive records of domestic human rights. However, of the twenty-seven African countries that have experienced some period of democracy,[145] seven have yet to ratify the Optional Protocol.[146] Of those that have ratified it, four were very slow to ratify the Optional Protocol, waiting six or more years after becoming democratic to do so.[147] Botswana and Sao Tome and Principe are two of the only African countries to have been democratic since

[144] Alter *et al* 2013
[145] I define the start of a period of democracy as the year that a state receives a Polity score of 6. For countries not coded by Polity, I use the Cheibub *et al* (2010) democracy indicator.
[146] The countries are Burundi, Botswana, Comoros, Kenya, Liberia, Mozambique, and Nigeria.
[147] The countries are Cape Verde (9 years), Guinea Bissau (8 years), Mali (9 years), and South Africa (6 years).

independence. Botswana has never ratified the Optional Protocol, while Sao Tome and Principe did so only in 2017, which they did a full thirty-one years after ratifying the African Charter. This is puzzling behavior if we expect these states to send costly signals of their regime type in order to attract material resources or to act in ways that accord with their identity as a democratic, human rights-respecting state.[148] It also indicates that the preference for delegating authority to a regional organization is driven by both democracies and autocracies.

An example of this preference for regional enforcement occurred in 1988, amidst a bout of inter-ethnic violence in Burundi. Western governments threatened to cut off Burundi's economic assistance and called on Burundi to accept an independent investigatory commission, with both European Commission and the U.N. offering to furnish the commission. In response, Burundi seemed to re-assert the norm of non-interference, with the country's foreign minister stating that Burundi is "an independent state which has the situation under control. There is no place for such a commission."[149] However, within several months, the government of Burundi accepted a visit from a small O.A.U. team, met to discuss the violence with the heads of state of the sub-regional organization the Economic Community of the States of the Great Lake, sent a representative to a meeting of the recently formed African Commission on Human and Peoples' Rights to discuss the situation, and within the next year, ratified the African Charter on Human and Peoples' Rights. In contrast, Burundi waited an additional two years to ratify the ICCPR, and never ratified the First Optional Protocol to the ICCPR, in spite of undergoing significant political liberalization in 1992 and 1993 and becoming a full democracy in 2005.

2.4. Asserting regional authority

Both in the U.N. and within the Lomé system, African states began to assert the authority of regional organizations over human rights. An important move towards asserting regional authority within the U.N. came in 1977, when the Nigerian delegation introduced a resolution to the U.N. General Assembly calling for the states to consider creating "regional arrangements for the promotion and protection of human rights" in regions where none such arrangement existed. The resolution was introduced in December 1977, in the midst of growing international attention to Uganda and the announcement by European states, six months earlier, that they intended to add human rights conditions to the Lomé Convention. The resolution that was adopted in 1977, under the title "Regional arrangements for the promotion and protection of human rights," became a regular part of the U.N. agenda, and resolutions were issued at least every other year, and sometimes on a yearly basis. The following year, as part of the same initiative, Nigeria revived the project of organizing U.N. seminars in regions that did not have their own human rights commissions was also revived, calling for a seminar to be organized in Africa.

Following the signing of the Lomé Convention in 1979, the president of the ACP Council of Ministers spoke on behalf of the entire ACP group in asserting the legitimacy of African regional human rights mechanisms and emphasizing that it represented a genuine move towards regional human rights protection. The diplomat stated that "as a group, our concern for human rights is no less than yours…Those of us who are members of the Organization of African Unity have reaffirmed that intention at the level of heads of State in the now famous resolution in Monrovia in July 1979…Thus we too are militants for human rights."[150] They have also put

[148] Hafner-Burton *et al* 2015; Lutz and Sikkink 2000, 2001; Pevehouse 2002
[149] "Commission on killings ruled out by Burundi" 1988
[150] Young-Anawaty 1980: 93-94 n129

forward the argument in negotiations that, because they already had a regional human rights system, adding human rights to Lomé was unnecessary and would duplicate what was already being done regionally.[151]

It is no surprise that African states assert the norm of regional solutions to regional problems.[152] What changed after the onset of pressures to self-determination is that these assertions were coupled with actual interventionist actions on the part of African states. As late as 1977, a group of Western states agreed to withdraw a draft U.N. General Assembly resolution targeted at Uganda after African states asserted that the matter should be left to the O.A.U., who proceeded to take no action on it.[153] However, once Western states demonstrated their intention to enforce human rights themselves, states began to couple the assertion of regional authority with some real delegation of authority.

For example, in January 1983, just two years after the African Charter had been adopted, the Nigerian government received substantial international attention for its expulsion of Ghanaian citizens that were residing in Nigeria. In addition to the mass expulsion, there were also reports from the Western media of torture and murder of immigrants in Nigeria.[154] By coincidence, the ACP-EEC Joint Parliament, a body of European and African, Caribbean, and Pacific parliamentarians set up to oversee implementation of the Lomé Convention, was scheduled to meet the month after the mass expulsions began. In advance of the meeting, the European Parliament requested that they add the expulsion to the meeting's agenda. Rather than object to the interest from the European Parliament as inappropriate interference, a report on the meeting drawn up by the European Parliament notes that ACP states "express[ed] understanding" for the European Parliament's concern. Instead, an ACP spokesperson, a representative of Uganda, asserted that they "wanted the matter to be settled by the Africans themselves," and asked the European Parliament to "trust the OAU, ECOWAS and the countries directly concerned to find a humanitarian and fair solution."[155] Notably, they also reasserted during the meeting that human rights should be excluded from economic negotiations.[156]

At this time, the African Charter and Commission had not come into force, but in February 1983, shortly after the expulsion, the sub-regional organization ECOWAS responded to the situation by sending a fact-finding delegation to Ghana[157] and Nigeria's president signed into law a bill on the ratification and enforcement of the African Charter.[158] By contrast, Nigeria did not ratify the ICCPR for another decade, and has yet to ratify the First Optional Protocol. More generally, in the joint ACP-European bodies, African states have often argued that European actors should act in support of African regional bodies in responding to human rights violations, including by making funds available to the region to enable them to deal with the matter themselves.[159]

In the U.N. there was a similar assertion of regional authority over human rights. In September 1979, several months after the resolution for an African Charter was adopted, the U.N. held a seminar in Africa on the establishment of a regional commission. There was

[151] Gueye 1996: 25
[152] Apuuli 2012; Duursma 2020
[153] U.N. General Assembly 1977j; U.N. General Assembly 1979b: Para. 33
[154] "Nigerian Minister's criticism of Western and Ghanaian media" 1983
[155] European Parliament 1983b
[156] *Ibid*
[157] "ECOWAS delegation in Ghana: aid for deportees" 1983
[158] "Nigeria's ratification of African charter on human rights" 1983
[159] Arts 2000: 253, 270

contestation over what the relationship between the commission and the U.N. would be—whether it would implement universal standards or "African" standards. While the U.N. officials were more interested in immediately setting up a regional commission and worrying about a regional charter later, African representatives preferred to have a regional system that would be completely autonomous.

2.5. Engagement with extra-regional enforcement

Rather than simply objecting to enforcement efforts that came from outside of the region, there were many efforts by African leaders and governments aimed at improving the effectiveness of global systems of enforcement. African states have frequently been willing to support and cooperate with outside human rights promotion and protection efforts, where those efforts preserve and respect their self-determination through state equality and equal participation.

As noted earlier, Nigeria's proposal in 1967 for regional human rights commissions envisioned the commissions being housed within the U.N., and this proposal, though defeated, received some limited support from other African states. In 1968, Nigerian attorney general T.O. Elias also proposed establishing an international human rights court. The 1977 proposal for a U.N. High Commissioner of Human Rights was supported by a number of African states, including Senegal, the Gambia, Lesotho, and Botswana, who co-sponsored the resolution proposing it.[160] A proposal to increase the effectiveness of U.N. human rights protection, which called for states to permanently waive the right to consent to visits by Commission on Human Rights, was made by Senegal in 1977.[161] A more recent example includes the initial African enthusiasm for the International Criminal Court, which Line Engbo Gissel demonstrates was, in part, due to the belief that it could mitigate the effects of power disparities in international politics. Gissel demonstrates that it was only after African states came to believe that the court was being used by powerful states to target weak states that they rescinded their support.[162]

Prior to the creation of their regional system, African leaders also looked to develop enforcement that involved actors from outside of the region, including the Gambia's proposal for establishing a human rights commission within the Commonwealth of Nations.[163] Alongside this, within the Commonwealth, African states were also willing to condemn Uganda in 1977.[164] African responses to the situation in the Central African Empire in 1979 were made through the Franco-African Summit, where states organized an independent investigation of the accusations of human rights violations made by Amnesty International. The investigation corroborated the reports, including Jean-Bédel Bokassa's personal involvement.[165]

As discussed above, within the context of their Lomé relations with the EEC, there was initial interest in establishing a system for commenting on and condemning human rights that would apply equally to both ACP and European states. African states also came to support enforcement through their ACP-EEC joint parliamentary bodies, with African states consenting to human rights investigatory missions fielded by these joint bodies and, in some cases, issuing

[160] U.N. General Assembly 1977c
[161] U.N. General Assembly 1977e
[162] Gissel 2018
[163] Jallow 2007: 24; Kirby 2021
[164] Kannyo 1981: 16; Kirby 2021
[165] "Bokassa's accomplices" 1979; "The emperor alarmed Africans" 1979; "Africa Commission Says Bokassa Had Role in Massacre of Children" 1979

harsh condemnations of human rights violations in African states.[166] In the 1990s, they called for the use of economic sanctions in response to human rights violations by the governments of Burundi, Somalia, Equatorial Guinea, Nigeria, and Zaire in the 1990s.[167] These calls for sanctions overlapped with their objections to the addition of human rights conditions to the Lomé Convention, further suggesting that it was concerns about participation and imposition that were motivating their objections to adding a suspension clause to Lomé, rather than objections to the use of economic sanctions, *per se*.

5. Conclusion

The experience of African states with international human rights highlights the two sides of a lack of self-determination. On the one hand, African states have often been unable to domestically affirm or meaningfully participate in the design and implementation of human rights enforcement being carried out in the region. On the other hand, they have also been unable to influence the global system by eliciting action in cases where they *do* want global support, as painfully illustrated in the case of Rwanda. For African states, the normative shift within Africa from "non-interference to non-indifference" should be understood, in part, as a way of responding to both sides of their lack of self-determination over global human rights.

Overall, I find substantial support that challenges to their self-determination in the form of attempts to institutionalize economic conditions and apply them widely to African states was an important piece of the explanation for the decision of African states to compromise on the norm of non-interference. Leaders and representatives of democracies and states that supported human rights in other contexts, including Senegal, Botswana, and Uganda in the years after Amin was overthrown, pushed back against the incorporation of human rights conditions in the Lomé Convention, noting its inappropriateness, its undermining of equality and partnership, and its one-sidedness.

States moved to collectively delegate challenging authority that compromised on non-interference to the O.A.U. only *after* Western states pushed to broadly apply economic pressures, with efforts by the EEC to institutionalize the Uganda Guidelines in the Lomé Convention the most immediate and important pressure. Finally, though the preference for and assertion of regional authority through recourse to the norm of African solutions to African problems is well-documented, I provide evidence that African governments have also regularly been willing to support and cooperate with enforcement from outside of the region where this outside enforcement is viewed as reflecting state equality and equal participation and is this compatible with self-determination.

[166] Arts 2000: 270-282
[167] Arts 2000: 281-282; Grauvogel 2015: 176-177

Chapter 8. The Middle East and the League of Arab States

In September 1968, at the Arab Conference on Human Rights in Beirut, the League of Arab States formed the Permanent Arab Committee on Human Rights, an intergovernmental human rights body mandated to promote human rights, bring about Arab self-rule in Palestine, and encourage cooperation and ratification of human rights instruments by the member states of the Arab League. In 1970, the Council of the League, an intergovernmental body, established a Committee of Experts to create a regional human rights declaration, which was completed and sent to states for comment in 1971. In the late 1970s and early 1980s, a series of reforms were proposed within the Arab League which aimed to make human rights a formal part of the mandate of the organization.

Looking at these early developments, one might have predicted that the Arab League would have eventually gone on to develop and expand its human rights mechanisms for protecting and enforcing human rights. In fact, during a 1979 U.N. Seminar on establishing regional human rights arrangements in Africa, representatives of the Arab League attended to share their experience with African leaders, providing an example of the way that regional organizations had advanced towards cooperating on human rights.[1]

However, in spite of the fortuitous timing of these early initiatives at the precise moment when transnational human rights advocacy was on the rise in the 1970s, the proposals made during this time failed to gather state support and floundered. The one mechanism that came to fruition, the Arab Permanent Committee, would focus its attention almost exclusively on Palestinian independence in the coming decades, rather than the human rights practices of the organization's member states. Other mechanisms, including human rights declarations and charters, were repeatedly pushed down the road, and it wasn't until 1994 that a regional human rights charter was finally adopted, which would create a new independent commission for overseeing the charter's implementation. Yet, the 1994 charter was roundly criticized by non-governmental organizations, and only one state so much as signed it.[2]

This changed in the 2000s, when member states did finally adopt a number of more inward-looking regional mechanisms. However, the mechanisms that were created did not actually diminish states' sovereign authority, lacking power to carry out basic enforcement or investigatory activities. As Vera Van Hüllen has argued, these mechanisms give the impression that they are simply aimed at getting the West to "leave [them] alone," doing the least possible to keep outside actors out of their business, but, unlike other regional organizations in the Global South, not delegating any actual, challenging authority.[3]

What explains the trajectory that the development of regional human rights mechanisms took in the League of Arab States? Why did the initiatives underway during the 1970s not get caught up in the wave of changes in the practice of human rights that swept the world during this time? The most common answers given to this question are the persistence of authoritarianism and the lack of coherence between global human rights norms and regional norms, especially regarding the clash between secular human rights and the primacy given to Islam in Arab countries. Yet, major moves towards the regional institutionalization of human rights in both Latin America and Africa occurred at especially low moments for democracy in these two

[1] U.N. Division on Human Rights 1979: Para. 21, 23, and 25
[2] Rishmawi 2005
[3] Van Hüllen 2015

regions, and they happened with the active involvement of authoritarian governments. There were also moves towards political liberalization in a number of member states in the late 1980s and early 1990s that failed to produce more successful institutionalization of human rights. Additionally, in both Africa and the Middle East, there are core ways in which human rights norms as conceived globally conflict with local or regional norms and values. Both share a predisposition towards the prioritizing the good of the community and emphasizing the duty of the individual to society. Yet, in Africa, this quickly ceased to be an impediment to creating regional mechanisms.

In this chapter, I examine the League of Arab States as a case where challenges to self-determination did not appear and where, as a result, member states did not compromise on the norm of non-interference. I show that Middle Eastern states, by and large, were spared the kinds of challenging, costly pressures faced by Latin American and African states during this time. A combination of countervailing interests along with more limited opportunities for enforcement led Western states to systematically subsume human rights to other concerns in their relations with Middle Eastern states. Instead, pressure from the West, and most importantly from the United States, was aimed at ensuring that governments in the Middle East were friendly to U.S. interests and secular in orientation. As Amaney Jamal demonstrates, this has meant that U.S. pressure often runs counter to and has the effect of undermining domestic liberalizing forces.[4]

As a result, there was no reason for the members of the Arab League to move to compromise on regional norms of non-interference. This general ambivalence on the part of Western states towards political liberalization in the Middle East continued after the Cold War and through the Global War on Terror, leading to regional enforcement mechanisms that falls far short of their counterparts in other regions.

1. The consolidation of non-interference in the Middle East

From long before they achieved independence, political actors in the Middle East have used regional collective action in support of non-interference. This was first focused on securing non-interference in the region by non-Arab powers. Upon the formation of the League of Arab States, formal regional institutions also prohibited interference in one another's affairs, though this aspect of non-interference was not consolidated until the late 1960s and early 1970s.[5]

Regional cooperation among states in the Middle East and North Africa shares many traits with cooperation in other regions of the Global South, having arisen in response to many of the same kinds of pressure and aimed at similar goals. Resistance to external control and domination was an important impetus for early regionalist sentiments and nascent regional cooperation in the Middle East, with regional approaches aimed at gaining independence from external powers and ensuring respect for their sovereignty by actors outside of the region.[6]

This manifested as Pan-Arabism. It emerged at a time when much of the Middle East was under Ottoman rule, and it gained traction during World War I, with a rising Arab national

[4] Jamal 2012

[5] This section is heavily indebted to the work of Michael Barnett for the discussion in this section of the development of regional order in the Middle East, the clash between sovereignty norms and Pan-Arabism, and how these were eventually resolved in favor of state sovereignty and non-interference.

[6] Barnett 1995b: 480; Barnett and Solingen 2007: 193; Khadduri 1946a: 756-757; King 1978: 108-109

consciousness responding, in part, to a weakening Ottoman empire.[7] An important moment in the rise of this pan-regional consciousness was the Arab Revolt, which took place from 1916 to 1918. This revolt was aimed at freeing Arab states from Ottoman rule and establishing a single, unified Arab state in its place.[8] The Arab Revolt was encouraged and abetted by the British, who were allied against the Ottoman empire during WWI and looked to the support of Arab people under Ottoman rule to weaken the Ottomans from within.[9] Western leaders supported Arab nationalism, promising to recognize the independence of Arab states after the end of the war. However, in secret, the British and French governments made a deal to carve up the Ottoman empire's Middle Eastern colonies in the Sykes-Picot Agreement. After the war ended, rather than independence, Middle Eastern colonies were placed under the mandate system of the League of Nations, under the control of France and Great Britain. This added the territories of what are now Iraq, Syria, Jordon, Lebanon, Palestine, and Israel to the European powers' other colonies in the wider Middle East, which included the Gulf peninsula and Northern Africa.[10]

During the inter-war years Arab nationalism continued to grow, now evolving to advance the end of Western imperialism. Many political leaders within these regions conceived of Pan-Arab unity as the answer to the problem of external domination, now by the West.[11] In 1931, the World Islamic Congress was convened in Jerusalem, gathering together supporters of Pan-Arabism, including a number of nationalist leaders. As a result of the congress, they adopted the Pan-Arab Covenant which asserted the indivisibility of the "Arab Nation," the shared aim of "total independence," and the rejection of imperialism "in all its forms."[12] Pan-Arabism came to form an important part of Middle Eastern independence movements in the 1930s and 1940s. During World War II, Arab nationalism and agitation for independence grew, a dynamic which Barnett suggests was the result of the increasing sense internally of a shared Arab identity.[13]

In the years leading up to independence, the political form that post-independence Arab unity would take was contested internally, with some favoring a united Arab state and others favoring the creation of independent states that would engage in inter-governmental cooperation.[14] In both the Alexandria Protocols, adopted in 1944 in the year before their independence, and the Charter of the League of Arab States, adopted immediately upon their independence in 1945, states affirmed the idea of Arab unity for the sake of "protect[ing]" or "safeguarding" their independence and sovereignty.[15] However, though leaders declared the importance of Arab unity, including eventual political unification,[16] in both documents, they affirmed their existence as independent, sovereign states rather than a single Pan-Arab state.[17] As a result, in 1945, Egypt, Iraq, Jordan, Lebanon, Saudi Arabia, Syria, and North Yemen joined together as sovereign states to form the regional intergovernmental organization the League of Arab States.

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[7] Barnett 1993: 280
[8] Almakky 2015: 103; Karsh and Karsh 1997: 267
[9] Almakky 2015: 103; Khadduri 1946a: 756-757; Wright 1968: 5
[10] Al-Sayyid 1997: 27; Almakky 2015: 103-105; Barnett 1993: 281; Khadduri 1946b: 90; Wright 1968: 5
[11] Barnett 1993: 281; Rubin 1991: 585-586
[12] Porath 1986
[13] Barnett 1993: 281, 284, 1995: 493; Porath 1986
[14] Barnett 1993, 1995; Barnett and Solingen 2007
[15] Alexandria Protocol 1944: Article 1; League of Arab States 1945: Article II.
[16] Barnett and Solingen 2007: 190, 193; Khadduri 1946: 96-97
[17] Barnett and Solingen 2007: 188-190; MacDonald 1965: 33-38

Though their regional institutions firmly institutionalized their individual sovereign statehood, inter-state politics in the region continued to be characterized by the clash of the legitimacy of Pan-Arabism and state nationalism and territorial sovereignty.[18] Barnett shows that this lack of coherence and agreement and the clashes between sovereignty and Arab nationalism from 1945 to 1967 was the cause of a great deal of intra-regional conflict and intervention.[19]

However, regional cooperation aimed at removing extra-regional interference continued to be a unifying factor for states and an important focus of collective action. Since the creation of the League of Arab States, the regional order always emphasized sovereignty and non-interference with respect to actors from outside of the region. During the drafting of the U.N. Charter, Arab states had argued for language in the charter on regional "arrangements" which would make regional security a matter that was primarily internal to the region. This was rejected by the great powers, who believed that regional organizations should be supplemental and subordinate to the U.N.[20]

Removing external actors from the region in the form of decolonization of the region was an important focus of collective action.[21] At the time that the Arab League was formed, only seven states out of what would eventually be twenty-two members were independent. Areas still under colonial control included Algeria, Egypt, and a number of Gulf states. Within the Arab League, states advocated for the independence of majority-Arab territories that were still under colonial control, as well as completing the removal of European troops from the region.[22] They provided practical, financial, and military assistance to liberation movements, and they acted at in the United Nations as spokespeople for these movements.[23] Early on, they also cooperated with the Organization of African Union, providing support to each other's independence struggles.[24] Arab League member states also organized common positions on decolonization that they then advocated for at the U.N.[25] Throughout this time, Palestinian independence became one of the core issues on which Arab states cooperated.[26]

Also important was removing unwanted Western involvement for those states that had gained independence. A number of actions on the part of Western governments during this time increased the perception on the part of many leaders of Western meddling and imperialism, and they were met with strong opposition from states in the region. These included the creation of Israel by the British government in 1948, turning it into a homeland for Europe's Jewish population in the aftermath of the Holocaust;[27] attempts by the U.S. and Britain to create a NATO-type alliance with states in the region, resulting in the Baghdad Pact in 1955;[28] the Israeli-British-French invasion of Egypt in 1956 in response to Gamal Nasser's nationalization of the Suez Canal;[29] and the consolidation of the U.S. as the primary backer of Israel.[30] Some Arab leaders believed that the United States had secretly provided support for Israel during the 1967

[18] Barnett 1993: 284; Barnett 1995b: 495; Barnett and Solingen 2007: 189
[19] Barnett 1993, 1995
[20] MacDonald 1965: 8-12
[21] Boutros-Ghali 1979; MacDonald 1965: 94-96
[22] MacDonald 1965: 64; Pogany 1986: 369; Salman 1986: 138
[23] MacDonald 1965: 94-96
[24] *Ibid*: 96-98, 104-105
[25] MacDonald 1965: 96-98; Salman 1986: 139
[26] King 1978; MacDonald 1965: 82-94,
[27] Barnett 1995b: 494; King 1978: 108-110
[28] Barnett and Solingen 2007: 201-206; Podeh 1993
[29] Podeh 1993: 92; 1996: 163
[30] Khalidi 2009: 24; MacDonald 1965: 89; Newsom 1981: 301

Six-Day War, in which Egypt was defeated by Israel and which was regarded as a devastating blow to Pan-Arabism.[31] Even Saudi Arabia, one of the earliest and most consistent allies of the West in the region, felt compelled by Arab nationalist sentiment in the region to limit Western presence within its borders. This led them to request the termination of a base agreement with the U.S. in 1961.[32]

Socialist and non-aligned states were the loudest voices in calling out Western imperialism.[33] This was most prominently the case for Egypt's Gamal Nasser. Though Egypt is in both Africa and the Middle East and is a member of both the Arab League and the Organization of African Unity, Nasser was heavily involved in the project of Arab unity as one of the leaders of the movement in the 1950s and 1960s and, while Nasser was in power, Egypt was the most influential member of the Arab League.[34] Bringing an end to Western imperialism was central to Nasser's Pan-Arab aims.[35] Nasser articulated this in a speech to army officers in 1955, in which he asserted that:

> "We are a state which lived under the yoke of imperialism for 75 years in the form of British occupation. Before the British occupation we had Turkish colonization for 300 or 400 years…I consider that Egypt at present, now that she is beginning one phase of liberation, must rid herself completely of every influence so that she can stand on her own feet."[36]

Though Syria was less influential in Arab politics than Egypt, the Syrian Ba'athists and leaders in Algeria were also important critics of Western interference in the form of spheres of influence and outside domination.[37]

In contrast to a norm of non-interference by actors from outside of the region, the norm of non-interference among states in the region took longer to consolidate. A regional order based on Pan-Arabism was much more permissive of interference, since it denied the legitimacy of states' independent existence.[38] However, the 1967 war represented a turning point for Pan-Arabism in the region.[39] In between the 1967 Six Day War and the 1973 Yom Kippur War, when Arab states were again defeated by Israel, the idea that Arab lands should be united into a single territory fell away. Arab nationalism continued to be an important political symbol, and an Arab identity continued to bear importance for Arab leaders and citizens. However, strict sovereignty norms, including non-interference among Arab states, were consolidated at this time as a core, underlying principle of their regional order.[40] In other words, in the years right before the human rights breakthrough in the 1970s, the norm of non-interference became firmly consolidated.

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[31] Newsom 1981: 302-303, 307
[32] Khalidi 2009: 15-16
[33] Barnett and Solingen 2007: 201-202; Nasser 1954; Özsu 2015
[34] King 1978: 108, 110; Podeh 1993: 91; Rubin 1991: 536
[35] James 2005; Podeh 1996
[36] Podeh 1996: 170-171
[37] Özsu 2015; Peretz 1965: 37
[38] Barnett 1993, 1995
[39] Barnett 1995b: 488-490; Khalidi 2009: 23-24
[40] Barnett 1995b: 488-490

2. An absence of challenges to self-determination over human rights

In the previous chapters, I described in detail the ways that the self-determination of states in Latin America and African began to be challenged by the imposition of human rights enforcement beginning in the 1970s. This took the form of enforcement that states in these regions lacked tools to effectively participate in the design and implementation of, that undermined their foreign policy goals and human rights priorities, and that were imposed on them without their ability to consent in any meaningful way. By contrast, these pressures did not appear in the Middle East. For both the United States and Western Europe, enforcing human rights in the Middle East was far more costly and difficult, and became more so starting as of the early 1970s.

Through the beginning of the 1970s, the Middle East as a region had both strategic and economic importance to the West because of the presence of oil throughout the region and its location vis-à-vis both Europe and the Soviet Union.[41] This had made the Middle East, alongside Southeast Asia, one of the regions in the Global South targeted by Western states for more intensive security cooperation. Western governments pursued security pacts resembling NATO with states in these two regions. The most important of these in the Middle East was the Baghdad Pact, although only Iraq joined, and the decision to do so resulted in Iraq's increasing isolation within the region.[42] Western states were also responding to moves by states during the 1950s towards nationalizing important industries. The nationalization of the Suez Canal by Egypt in 1956 prompted the U.S. to takes steps to increase its presence in the region, most notably through the 1957 Eisenhower Doctrine, which announced their support for any Middle Eastern government targeted by "overt armed aggression from any nation controlled by international communism." It was also during this time that the U.S. established its alliance with Saudi Arabia, which by the 1950s had already taken on great importance for the U.S.[43]

From the 1950s to the 1970s, states in the Middle East had a number of complicated entanglements with the West and the Soviet Union, which occurred alongside what has been termed the "Arab Cold War."[44] States that were socialist-leaning, anti-American, and non-aligned, including Egypt, Syria, and Iraq, developed ties with the Soviet Union, while more conservative states in the region, including Jordan, Tunisia, Morocco, Saudi Arabia, other Gulf states, collaborated with the U.S.[45] This connected the internal fighting within the region, of which Egypt and Saudi Arabia represented the axis of the two camps, with larger Cold War hostilities and proxy fighting between the U.S. and the Soviet Union. Historian Rashid Khalidi notes that this "provided opportunities for Middle Eastern 'clients' to extract support from their superpower patrons, which the latter sometimes were obliged to extend against the better judgement of key policymakers."[46]

In the 1970s, as human rights were breaking through as an issue that demanded international attention and were working their way into the foreign policies of Western states, a number of global events made the Middle East even more important to Western states, while at the same time, making these states increasingly economically independent and thus less

[41] Khalidi 2009: 9
[42] Barnett and Solingen 2007: 203-206; Podeh 1993: 92
[43] Khalidi 2009: 11-18
[44] Kerr 1965
[45] Kerr 1965; Khalidi 2009: 18-21
[46] Khalidi 2009: 18

vulnerable to the kinds of pressures being used to police human rights. In fact, the wealth of many Middle Eastern countries increased by a staggering amount in the 1960s and 1970s.[47] The starkest example was Saudi Arabia, whose GDP, by one estimate, increased by 1,000 percent between 1970 and 1977.[48] Additionally, though Middle Eastern states were dependent on arms from the West, as I will discuss, the importance of the Middle East resulted in their arms sales not being affected by human rights considerations.

For both the United States and Western Europe, human rights had to compete with other important regional priorities, including maintaining access to oil and resolving the Arab-Israeli conflict. In 1973, after the defeat of Arab states in the Yom Kippur War, oil producing Arab states implemented an oil boycott on Western states that they viewed as supporting Israel. They also halted much of their oil production. This resulted in the "oil shock," which led to the quadrupling of oil prices. Both the U.S. and Western Europe were heavily dependent on Middle Eastern oil, and the rising prices and oil shortages that resulted put a great deal of domestic pressure on them.[49] This was exacerbated further by the Iranian revolution in 1979, which removed from power a reliably friendly government in the Middle East and an important source of U.S. oil,[50] and resulted in another global increase in oil prices.[51] Finally, beginning in the late 1960s and early 1970s, Western states became increasingly concerned with terrorism within the region.[52]

In part because of the effects that the war was having on their access to oil and in part because of the perceived importance of stability within the Middle East for the security of Western states, achieving peace in the Middle East became a priority for Western governments. A former U.S. Ambassador to Libya wrote in 1981 that with "no region in the world does a single issue so dominate the relationship…as does the dispute with Israel in the Arab world."[53]

The pull of these competing priorities was no less acute for the administration of Jimmy Carter, who, upon taking office, made achieving peace in the Middle East one of his core priorities. In spite of Carter's broad emphasis on promoting human rights, this issue was subsumed to other considerations. This is clearly reflected throughout internal documents within the Carter administration. In a memo from Anthony Lake, the Director of Policy Planning within the State Department, in 1978, Lake noted that "our desire to move Arabs and Israelis toward a peace settlement and the importance of Mideast oil have kept arms sales high."[54] Also speaking about the Middle East, he noted that: "we have not put primary emphasis on human rights considerations, in view of our other pressing interests, when deciding on arms sales or determining our approach to the area generally."[55] The lack of human rights attention was exacerbated by the fact that "Few of them are recipients of economic assistance."[56]

This lack of priority accorded to human rights in their relations with the Middle East was made clear in a 1979 memo from the Secretary of State Cyrus Vance to Carter, in which Vance requested Carter's approval for a $120 million sale to Saudi Arabia of air munitions, laser-guided

[47] Alnasrawi 1987; Owen 1981
[48] Owen 1981
[49] Bicchi 2002: 4; Corbett 2013; Nonneman 2006: 59-60, 63
[50] Jones 2012; Sneh 2008: 171, 178
[51] Sneh 2008: 171, 178
[52] Bicchi 2002
[53] Newsom 1981: 301
[54] *FRUS* 2013, Document 105
[55] *Ibid*
[56] *Ibid*

bombs, and cluster bombs. After providing an overview of the proposed sale, Vance noted without any elaboration that the sale was "consistent with [Carter's] human rights policy and related legislation."[57] This was in spite of reports circulated by the State Department which brought attention to a number of substantial human rights problems in Saudi Arabia[58] and noting the Saudi Arabian government's "lack of understanding of human rights."[59] The sale was subsequently approved by Carter.[60]

There was a similar unwillingness to prioritize human rights by Western European states, who were heavily dependent on Middle Eastern oil, and for whom the Middle East was an important trading partner.[61] In the aftermath of the 1973 embargo and oil shock, they were focused on improving their relations with Arab states. In 1974, the Euro-Arab Dialogue between the European Community and the Arab League was introduced for political cooperation between the groups, with the issue areas under discussion quickly narrowed down to just economic development, which was seen as the only area that was not too sensitive. Little happened with the dialogue, and the Arab states abandoned it in 1979.[62]

At the outset, European states also had fewer existing institutional opportunities for exerting pressure and introducing human rights into their relations, especially when compared to the opportunities that existed with the African, Caribbean, and Pacific states through the Lomé Convention. In fact, in the late 1960s and early 1970s, the European Community had initiated attempts to bring together the many bilateral treaties and relationships with Northern Africa, the Middle East, and Southern and Eastern European states into a single coherent policy with what they dubbed the "Mediterranean Group."[63] The "Global Mediterranean Policy," according to the E.E.C. Development Commissioner, was intended to develop relations with the Mediterranean states that would be equivalent to their Lomé relations with the African, Caribbean, and Pacific states.[64] However, the policy remained largely incoherent. Importantly, at no point did European states make an effort to introduce human rights into the discussions. Regardless, the plan was not realized, in large part because of the fact that Mediterranean states had a great deal of bargaining power, especially as the process of creating the group continued after 1973. In general, what it refers to as the Mediterranean area has typically been treated as far more politically and strategically important to the European Community than other parts of the Global South.[65]

In fact, far from using costly means to consistently pressure states on their human rights, the U.S. in particular was far more likely during this time to undermine political liberalization by supporting friendly authoritarian regimes.[66] Western states refrained from prioritizing human rights as a foreign policy goal in their relations with the member states of the Arab League during this time because doing so was prohibitively costly and difficult. It was costly in the sense that relations between Western states and the members of the Arab League were closer to one of symmetric interdependence, and enforcing human rights risked undermining Western governments' own strategic and economic interests in the region. It was difficult in the sense that

[57] *FRUS* 2018a, Document 199
[58] *Ibid*, Document 143
[59] *Ibid*, Document 154
[60] *Ibid*, Document 200
[61] Albinyana,and Fernández 2018; Bicchi 2002
[62] Albinyana,and Fernández 2018; de la Serre 1980
[63] Albinyana,and Fernández 2018; Tsoukalis 1977
[64] This relationship is discussed in detail in Chapter 7.
[65] Tsoukalis 1977: 426
[66] Baxter and Akbarzadeh 2012; Hamid 2011; Khalidi 2009: 18; Jamal 2012; Wang and Wang 2012

there were fewer clear levers for Western government to use, should they have chosen to enforce human rights. Yet, even when there were levers, as in the case of arms sales, Western governments chose not to make use of them. Additionally, though there were a number of Middle Eastern states that were, in fact, quite weak, unimportant, and dependent on external support, these states developed dependency, to a large degree, on other, wealthy states within the region.[67]

3. The faltering of regional human rights mechanisms

Prior to the start of the international human rights movement, there had been a number of moves by the Arab League to create regional human rights mechanisms. However, these ultimately did not develop along the same trajectory as other regions, with proposals repeatedly raised and put off. In response to later pressures from outside the region, there was some limited institutionalization of human rights in the Arab League. However, the pressure on the region has been only rhetorically concerned with human rights, but in practice has not led to real concerted pressure, and Western states have continued to privilege regional stability over other foreign policy goals. As a result, regional human rights institutions have continually fallen short of external expectations for appropriate and effective enforcement.

3.1. Development of regional human rights mechanisms prior to the 1970s

The Middle East has often been portrayed as particularly unreceptive to human rights, and since the end of the Cold War, it has frequently been the center of debates over cultural relativism.[68] The individualism of human rights is seen as clashing with the idea in Islam of the duties of the individual to their community. There is also a conflict between the secular nature of human rights versus the divine nature of religious belief.[69] In terms of specific rights, the rights that most commonly generate disagreement have been issues of gender equality and, more recently, sexual orientation and gender identity; the rights of religious minorities in majority Islamic states; and the right to change one's religion.[70] This picture of the relationship between the Middle East and human rights is, of course, contested, with many pointing out how this picture of the relationship between human rights and Islam relies on a non-existent internal unity for both Islam and the Middle East, while underestimating the degree of overlap and compatibility.[71]

Additionally, as discussed in Chapter 4, members of the Arab League were extensively involved in Global South advocacy for international responsibility for the right to self-determination and the right to development. In general, this supposed clash between religious belief and human rights was not nearly as prevalent prior to the 1970s. This is highlighted by both Susan Waltz, in her study on the contribution of Muslim states to human rights, and Johannes Morsink, in his study of the drafting process of the Universal Declaration of Human Rights (UDHR). Waltz and Morsink show that, during the early years of institutionalizing human rights in the U.N., the objections to human rights fielded by representatives of the Middle East

[67] Alnasrawi 1987: 362-363
[68] Bielefeldt 1995; Chase and Hamzawy 2008
[69] Halliday 1995
[70] Bielefeldt 1995; Halliday 1995: 153
[71] An-Na'im 2006; Chase and Hamzawy 2008; Halliday 1995; Waltz 2004

on the basis of religious belief were minimal. Saudi Arabian representative Jamil Baroody objected to the provision on the freedom of religion because he believed it had drafted in a way that unfairly targeted religion. In particular, while specifying that all people have the freedom of thought, conscience, and religion, the document then singles out only the right to change one's religion.[72]

There were also disagreements raised by some Middle Eastern representatives to certain provisions on gender equality during the drafting of the UDHR, but these were narrowly related to the question of the age of marriage and not about including gender equality, more broadly.[73] Finally, several Middle Eastern states voiced objections to the right to social security, but they did so because they thought the term "social security" did not adequately capture the obligation to give alms, one of the five pillars of Islam.[74] Of the Middle Eastern states that were members of the U.N. in 1948, only Baroody of Saudi Arabia withheld support for adopting the declaration.

From the time that the Arab League was formed in 1945 through the beginning of the 1970s, there were a number of moves towards regionalizing human rights, though, like other regions during this same period, these fell short of compromising on non-interference. The Arab League's charter as adopted in 1945 did not include any reference to human rights,[75] and the first activity within the Arab League aimed at institutionalizing human rights occurred in the late 1960s. These followed the initiation within the U.N. of a World Conference on Human Rights to be held in 1968 in recognition of the twentieth anniversary of the adoption of the Universal Declaration of Human Rights. They also responded to developments within the U.N. in 1967 and 1968 promoting the creation of regional human rights commissions. The decision to hold the conference was adopted in 1966, and it prompted the Arab League to organize its own participation in the conference, establishing an *ad hoc* committee to develop a program for the Year of Human Rights, also to be held in 1968.[76] In 1967, the Council of the Arab League created a second committee to organize the League's participation in the international conference and the Year of Human Rights.[77]

In December 1968, immediately prior to the U.N.'s Tehran World Conference on Human Rights, the Arab League held its first and only Arab Conference on Human Rights in Beirut, which was dedicated primarily to discussing Israel.[78] Once the World Conference was underway, they used it as a platform to condemn Israeli control of Palestine, ensuring that a great deal of the conference was dedicated to discussing the issue and resulting in a resolution requesting U.N. investigation of "violations of human rights in territories occupied by Israel." This was in spite of the fact that the issue of Israel and Palestine had not been on the agenda of the meeting.[79]

As a separate initiative, in 1967 and 1968, the U.N. Commission on Human Rights debated an initiative introduced by Nigeria for the creation of regional human rights commissions.[80] In response, in February 1968, the Secretary General of the League of Arab States sent a communication to the U.N. asserting that any regional human rights body should be

[72] Morsink 1999: 25-26; Waltz 2004: 815
[73] Morsink 1999: 24-25; Waltz 2004: 819-822
[74] Waltz 2004: 825-826
[75] League of Arab States 1945
[76] Al-Midani 2002: 103
[77] Al-Midani 2002: 103
[78] An-Na'im 2001: 712; Rishmawi 2008: 2.14
[79] Bilder 1969: 186, 186 n28; Saksena 1982: 9
[80] Ouguergouz 2003: 27; Umozurike 1983: 903-904; U.N. Commission on Human Rights 1968a: 3

housed within a regional organization,[81] and in September that year, the Arab League set up the Arab Permanent Committee on Human Rights and communicated this to the U.N.[82]

The Arab Permanent Committee, as it was set up, was not given any enforcement powers which would allow it to interfere in member states' domestic affairs. The Committee was tasked with promoting human rights among member states of the Arab League, drafting human rights treaties for consideration by states, providing recommendations on human rights, promoting education and awareness of human rights, and formulating common Arab positions on human rights.[83] The committee was also a purely intergovernmental body, comprised of state representatives rather than human rights experts.[84] In practice, the Committee's activities came to be focused almost exclusively on the issue of Palestine and on drafting human rights treaties.[85]

In line with its mandate to draft regional human rights treaties, at the 1968 Arab Conference on Human Rights, states instructed the Arab Permanent Committee to draft an Arab charter on human rights.[86] It is unclear what came of this first initiative apart from the fact that it did not result in a charter being produced. A new initiative mounted in May 1970, when the Arab Permanent Committee adopted a recommendation for the Arab League Council to establish a committee of experts to prepare a human rights declaration. In response, in September 1970, the Council formed the committee of experts,[87] and in July 1971, the committee adopted a draft Declaration on the Rights of Citizens of Arab States and Countries, which it submitted to states for comment. Fewer than half of the states responded, and the responses that were received were mixed.[88] The declaration was not adopted.

Little else happened internally with respect to human rights activity during this time. Overall, the Arab Permanent Committee on Human Rights made so little impact on states in the region that during discussions of reform of the organization in the early 1980s, some state representatives suggested the creation of a human rights commission and had to be reminded that one already existed.[89] There was no attention from Arab League member states to internal human rights activities of members, and a singular focus on human rights in terms of Palestinian self-determination. The only regional institution created during this time was a committee comprised of state representatives which held a weak, promotional mandate.

3.2. Failure to create regional enforcement mechanisms

Some of the efforts towards creating regional human rights mechanisms that had gotten underway in the late 1960s and the start of the 1970s carried over into the time after human rights became a major feature of Western state foreign policy. However, these initiatives failed to go anywhere. In fact, a notable feature of the Arab League, especially in contrast to other

[81] U.N. Commission on Human Rights 1968b
[82] Sahraoui 2004: 346; U.N. Commission on Human Rights 1968b
[83] An-Na'im 2001: 712; "Arab Permanent Committee on Human Rights" n.d.; Rishmawi 2008: D.8
[84] Rishmawi 2008: C.3
[85] An-Na'im 2001: 713; Pogany 1986: 371; Rishmawi 2008; Sahroui 2004: 347
[86] Al-Midani 2002: 106-107; Rishmawi (2008: 2.17. Allam (2014: 41) contradicts this, asserting that states gave this instruction to the Permanent Committee in 1969. While not directly contradicting either Al-Midani, Rishmawi, or Allam, An-Na'im (2001: 712-713) marks September 1970 as the first time that a recommendation for drafting a regional human rights charter or declaration was made.
[87] Al-Midani 2002: 106-107; Sahraoui 2004: 343
[88] Al-Midani 2002: 106-107; An-Na'im 2001: 713
[89] Chaabane 1982: 515-516

regions, is the number of proposals that arose in the 1970s and early 1980s but ultimately failed. A declaration, which would be followed by a charter and a court, never happened.[90] In spite of the fact that there had been some notable movement towards regional institutionalization of human rights, the breakthrough in human rights in the 1970s and the emergence of the human rights transnational advocacy network did not result in any additional institutionalization. Instead, interest in the regionalization of human rights mostly subsided.

In fact, beginning in the late 1970s, there was some minor resurgence in interest towards creating regional human rights mechanisms. These arose as part of larger moves to reform the Arab League in 1979. At the Arab League summit in November 1979, the states issued a resolution calling for the organization's charter to be amended and for a human rights charter to be drafted.[91] Nothing came of either of these initiatives. By 1982, an amended Charter of the League of Arab States had been drafted and circulated. The draft included, among other changes, the addition of human rights to the organization's objectives, which were amended to include "work[ing] toward ensuring that Arab States guarantee to man in the Arab world his security and all his rights and to enable him to practice his fundamental freedoms."[92] The draft amendments also tasked the Council of Arab Foreign Ministers with "protect[ing] human rights and freedoms" and "support[ing] the Arab Commission on Human Rights."[93] However, this amended charter was never adopted. Additionally, as noted above, during discussions about reforming the organization, the suggestion to create a regional human rights commission was floated, and states were reminded that a committee already existed.[94] As a result, no further action was taken.

With respect to the new initiative to adopt a regional human rights charter, the Arab Permanent Committee completed a new draft in 1982, which they forwarded to member states and which was considered by the Council of the League in 1983. However, the decision was made to hold off on adopting a charter in light of the fact that another international organization with overlapping membership, the Organization of Islamic Conference (OIC), was in the process of adopting the Islamic Declaration on Human Rights and Duties.[95] Notably, this other declaration was only adopted in 1990.[96]

There were also no moves to act on human rights violations of states within the region. In 1979, Amnesty International released country reports on Syria, Iraq, Sudan, Egypt, Libya, and Tunisia. However, human rights violations did not receive any attention from the Arab League or from other member states. As for the Arab Permanent Committee on Human Rights, it remained focused on issues that affected the Arab population but that were not related to violations of human rights by members of the Arab League. These included the status of Arab refugees, the problems of racial discrimination against Arab immigrants residing outside of the region, and the

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[90] Saksena 1982: 9

[91] Al-Ajaji 1990: 35; Al-Midani 2002: 107; Chaabane 1982: 510-511; Pogany 1986: 372

[92] Al-Ajaji 1990: 36; Chaabane 1982: 515-516; Pogany 1986: 372

[93] Al-Ajaji 1990: 36

[94] Chaabane 1982: 515-516

[95] An-Na'im 2001: 713; Sahraoui 2004: 343; Allam 2014: 41. There is an unusual amount of confusion regarding which years this second initiative occurred. Contrary to the three cited sources that state that the charter was drafted in 1982 and sent to states in 1983, Al-Midani (2002: 107), Rishmawi (2008: 2.b), and the International Commission of Jurists (1996: 57) all state that the charter was drafted in 1985 and sent to states in 1986. One possible explanation for the discrepancy is that, as per An-Na'im (2001: 713-714) and Sahraoui (2004: 343), in 1986, a charter was drawn up on the initiative of a group of experts from Arab countries that in a project that was unaffiliated with state governments or the Arab League. In any case, the ultimate outcome of the process was the same in each of these accounts.

[96] An-Na'im 2001: 713; Sahraoui 2004: 343

rights of Palestinians, both in terms of the collective right to self-determination and violation of individual rights by the Israeli government.[97]

3.3. The Cold War, 9/11, and renewed but limited pressure on human rights

As discussed in Chapter 7, the end of the Cold War and the fall of the Soviet Union opened up a great deal of space for Western governments to pursue human rights, including a wider range of civil and political rights, in their foreign policies. They also became more assertive with the use of more coercive measures, including the use of economic assistance and trade, but also extending to humanitarian intervention. Yet, for both the U.S. and Western Europe, this did not result in more than rhetorical pressure on states in the Middle East. This was in spite of the fact that there were a number of moves towards political liberalization in the late 1980s and early 1990s which would have offered clear focal points for Western states to engage.[98] By contrast, the Global War on Terror produced a great deal of pressure on the Middle East, resulting in the U.S., in particular, labeling freedom and political liberalization in the Middle East as a core foreign policy goal. Yet, in practice, this still did not fundamentally change the orientation of Western foreign policy towards prioritizing security and stability in the Middle East or produce any credible external threats.

Following the end of the Cold War, U.S. interest in promoting human rights in its foreign policy expanded dramatically. The U.S.'s new status as the sole superpower opened up space to pursue human rights in ways that had been limited by Cold War politics in the previous decades.[99] In spite of this, they nevertheless continued to do so in ways that were deeply shaped by competing interests. This problem was lamented by Aryeh Neier, the co-founder of Human Rights Watch and, at the time, the president of the international NGO the Open Society Institute. Neier wrote in 1996 of a "new double standard" in the enforcement of human rights in which "geopolitically or economically significant" states were frequently spared extensive human rights pressures.[100] Neier outlined a situation in which, "[t]ime and again," human rights organizations have noted the "disjunction between what is said in [the State Department human rights] country reports and U.S. policies toward those countries."[101] As I show in this dissertation, this was by no means a new double standard, though it did manifest differently after the end of the Cold War.

In fact, during this time, there was pressure on countries in the Middle East, particularly those listed as supporting terrorism.[102] Even more significant was the U.S. invasion of Iraq in January 1991, which the U.S. government justified in large part by recourse to the language of human rights, emphasizing Saddam Hussein's brutality.[103] At the same time, the U.S. remained willing to subsume human rights to other considerations in eliciting assistance in the Arab-Palestine peace process, even for states that had they had labeled as supporting terrorism. This was the case when the U.S. government sought out the help of Syrian president Hafez al-Assad, at which point they quieted their human rights criticisms of the Syrian government.[104]

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[97] Al-Ajaji 1990: 117
[98] Brand 1998; Esposito and Piscatori 1991; Norto 1993; Ottaway and Carothers 2004
[99] Dietrich 2006; Moore 1998; Neier 1996
[100] Neier 1996
[101] *Ibid*: 99
[102] *Ibid*: 96
[103] Dietrich 2006: 274; Labonski and Parker 1991: 155-156
[104] Neier 1996: 96

In general, in their relations with the Middle East, human rights were not the dominant policy concern for the United States in the post-Cold War period. For example, in a study of U.S. arms sales, Blanton found that from 1990 to 1994, human rights and democracy had a gatekeeping effect on whether states received arms from the United States, but that this did not apply to Middle Eastern states. Additionally, Middle Eastern states that made it through the gatekeeping stage received more arms than other states, with Saudi Arabia, Egypt, and Kuwait the top recipients.[105]

This downplaying of human rights was also true for Western Europe, though there was eventually more of a concerted effort to integrate human rights into their relations with the Middle East. Nevertheless, European policy within the European Community (beginning in 1992, the European Union) and, for many, their bilateral relations, remained focused on regional stability.[106] This was viewed as especially important given the proximity of Europe to the Middle East and, as a result, its exposure to refugee and migrant flows and terrorism. European states were also concerned about the possibility of instability negatively affecting the Middle East peace process.[107]

The lack of priority placed on human rights and democracy was illustrated by the fact that, by 1990, language on both had been incorporated into the European Community's relations with Latin America; East and Central Europe; and the African, Caribbean, and Pacific group of states. However, it was not made a part of the European Community's "Renovated Mediterranean Policy," adopted in December 1990. Over the course of the 1990s, EU aid to the Middle East also came to exceed aid to Latin America, Asia and the ACP states. The lack of emphasis on human rights by European governments came into conflict with the European Parliament's consistent interest in human rights. In 1992, the European Parliament exercised their power of assent, which gives them effective veto power over association agreements between the European Union and non-member states, to block the adoption of new aid packages for Morocco and Syria on account of human rights. This was move was strongly opposed by European governments.[108]

This general ambivalence on the part of Western European governments towards making human rights a core part of their relations with the Middle East continued as they increased the scope of their relations. The Barcelona Process in 1995, aimed at strengthening relations between the two regions and increasing the stability of the Mediterranean region, did include language on human rights and democracy in its establishing Barcelona Declaration.[109] Yet, European governments separately moved to ensure that political reform did not cause short-term instability in the region and preferred to press "discreetly" for domestic political change.[110]

A separate issue that arose for both the U.S. and Western Europe was their opposition Islamist political parties, which became an important limitation on their support for political liberalization.[111] When, in the late 1980s and early 1990s, political liberalization in a number of member states of the Arab League led to the growing power of Islamist political groups, Western governments largely retreated from their pro-democracy position. The most notorious example occurred in Algeria, after the Islamic Salvation Front won democratic elections. When the

[105] Blanton 2000
[106] Pace 2009
[107] Pace 2009: 41; De Perini 2020: 446
[108] Youngs 2002: 40, 49
[109] Final Declaration of the Barcelona Euro-Mediterranean Ministerial Conference 1995
[110] Youngs 2002: 42-43
[111] Baxter and Akbarzadeh 2012; Esposito and Piscatori 1991; Hamid 2011; Jamal 2012; Wang and Wang 2012

military annulled the election results, Western governments did not stand in its way. In fact, U.S. Secretary of State James Baker later said that it was the U.S.'s decision not to "live with" the election results "because we felt that the radical fundamentalists' views were so averse to what we believe in and what we support, and to what we understood the national interests of the United States to be."[112]

For both the U.S. and Western Europe, these patterns were no less pronounced following the September 11 terrorist attacks, though the U.S. did come to represent a significant interventionist threat to the region, especially after the 2003 invasion of Iraq. During the War on Terror, promoting human rights and democracy were an important rhetorical justification for U.S. intervention in the Middle East.[113] In 2002, U.S. Secretary of Defense Donald Rumsfeld asserted that "the War on Terrorism is a war for human rights."[114] Similarly, in a November 2003 speech to the National Endowment on Democracy, George W. Bush announced his administration's "forward strategy for freedom in the Middle East," noting that "Sixty years of Western nations excusing and accommodating the lack of freedom in the Middle East did nothing to make us safe—because in the long run, stability cannot be purchased at the expense of liberty."[115]

Nevertheless, in practice, despite pro-human rights rhetoric, both the U.S. and Europe continued to put the stability of the region, national security concerns, and the maintenance of friendly, secular governments before human rights.[116] The U.S. also became more accepting of governments cracking down on internal opposition groups where doing so was justified as counterterrorism.[117] As in the post-Cold War period, interest in any form of political liberalization was limited by an unwillingness to accept Islamic political movements, many of which were very popular domestically.[118] Where states have pursued human rights in their relations with the Middle East, the concern for maintaining stability has tended to lead them to favor "gradualism"[119] change and "evolution rather than revolution."[120] Unlike in Latin America and Africa, governments in the Middle East did not face a credible threat that violating human rights would affect their relations with the West.

3.4. Late, limited moves to create and accept regional mechanisms

Following the end of the Cold War and the onset of the Global War on Terror, there was some emphasis by Western governments on human rights and mixed willingness to enforce human rights in Middle Eastern states. This led to the first advances towards the creation of regional human mechanisms within the Arab League that compromised on the norm of non-interference. However, this pressure was consistently tempered by the fact that the relationship between

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[112] Hamid 2011: 25
[113] Dalacoura 2005; Ottaway and Carothers 2004: 2-3
[114] Quoted in Brown 2004: 460
[115] Quoted in Hamid 2011: 23. See also Dalacoura 2005: 964.
[116] Baxter and Akbarzadeh 2012; Carothers 2003; Chase and Hamzawy 2008: 9; Esposito and Piscatori 1991; Hamid 2011; Jamal 2012; Wang and Wang 2012
[117] Dietrich 2006: 289
[118] Brand 1998: xiii-xiv; Hamid 2011: 21-23
[119] Hamid 2011: 20. Similarly, Ottaway and Carothers (2004: 3) note that George W. Bush's democracy promotion initiatives consisted of "consist of mild, gradual measures designed to promote democratic change without unduly challenging the authority of incumbent governments."
[120] Brumberg 2003: 3

Middle Eastern states and the West is closer to one of symmetrical interdependence.[121] As Shadi Hamid has noted, Western governments' interest in human rights and democracy in the Middle East, because it is limited by their preference for stability, has encouraged states to "dutifully created the appearance of reform, rather than its substance."[122] Similarly, Vera van Hüllen has argued that the regional mechanisms created within the Arab League can be best viewed as attempts to make superficial commitments to human rights as a way of deflecting outside attention and pressure. At the same time, the members of the Arab League dropped their rhetorical opposition to human rights enforcement in the early 2000s, a significant development.

Even after the end of the Cold War, there were some minor responses within the Arab League to the increased importance of human rights to Western states. The 1990s were a time of declining relevance of the Arab League to its member states. During the 1980s, many meetings were boycotted, and states moved increasingly to cooperate through subregional organizations. Throughout the entire 1990s, only two summits were held, and a 1995 celebration of the 50th anniversary of the organization was attended by a single head of state—the host of the country holding it.[123] In spite of the organization's diminished importance, the process of adopting an Arab Charter on Human Rights was revived within the Arab League in 1992 by the Arab Permanent Committees on Human Rights and the Permanent Legal Committee, which approved a new draft in 1993.[124] The charter was adopted by the Arab Council in September 1994.[125] According to one account, a member of Egypt's delegation to the meeting expressly described the charter as a shield against outside pressures.[126]

Yet, the charter sat dormant after its adoption, never receiving a single ratification, and garnering only one signature, from the government of Iraq.[127] Nothing about the circumstances surrounding its adoption indicate any real intention to compromise on the norm of non-interference. On top of states' unwillingness to even sign the charter, its adoption occurred alongside arguments for cultural relativism by Arab League member states before and during the 1993 Vienna Conference and growing assertions that human rights were a form of Western imperialism.[128] There was also no activity aimed at engaging with human rights within subregional organizations at this time.

The next move to create regional human rights institutions occurred in the immediate aftermath of the War on Terror and the U.S. invasion of Iraq in 2003. During this time, the very real threat of U.S. military intervention and U.S. rhetoric on freedom and democracy conflicted with the need on the part of the U.S. to secure the cooperation of friendly governments in support of their counterterrorism efforts.[129]

In January 2001, the Arab Permanent Committee on Human Rights issued a recommendation that the 1994 charter be revised.[130] Though this process was initiated prior to September 11, the fact that it succeeded—that it was actually accepted by states, and that it went further than previous initiatives towards compromising on non-interference—must be viewed in

[121] Ottaway and Carothers 2004: 4
[122] Hamid 2011: 20
[123] Barnett and Solingen 2007: 209; Dakhlallah 2012: 406; Maksoud 1995: 589
[124] An-Na'im 2001: 714
[125] International Commission of Jurists 1996: 57
[126] An-Na'aim 2001: 715
[127] Sahraoui 2004: 339
[128] Halliday 1995: 152; Ottaway 1993
[129] Ottaway and Carothers 2004: 4
[130] Rishmawi 2008: 2.18; Sahraoui 2004: 339-340 n4

the context of the escalating War on Terror and the rhetoric of U.S. that its foreign policy was driven by establishing freedom in the Middle East. In decisions adopted in March 2001 and September 2002, the Arab League Council affirmed the decision to update the Arab Charter, though they did so without actually initiating any action on the update.[131] It was only during a Council meeting on March 24, 2003, a meeting which took place five days after the start of the U.S. invasion of Iraq, that states actually adopted a resolution setting into motion the creation a new regional human rights charter.[132] The charter was drafted by the Arab Permanent Committee on Human Rights in June and October that year. The draft produced by the permanent committee was then modified based on recommendations made by an expert group set up by the U.N. Office of the High Commissioner on Human Rights.[133]

The charter was adopted by states in May 2004. As drafted, it established a new regional human rights commission consisting of human rights experts serving in their individual capacity named the "Expert Human Rights Committee."[134] Unlike the previous charter, the 2004 charter was soon ratified by states, and by 2008, it had received a sufficient number of ratifications to come into effect. At the same time, as discussed more below, the enforcement mechanism created by the charter was given very limited enforcement power, including no powers to receive or act on complaints of human rights violations by individuals or member states.

The final piece of the existing human rights system, the development of which I will discuss in less detail, is the Arab Court on Human Rights. This mechanism also seemed intended to deflect pressure.[135] The court was proposed by King of Bahrain in 2012, in the midst of his efforts to resist being forced out of power by the Arab Spring protests, and it was adopted by states in 2014.[136] Unlike the Expert Commission, the court can actually receive human rights complaints from states, and the statute also allows states to make a declaration in which they allow "one or more NGOs" that are accredited by the state to be selected by governments and allowed to submit complaints.[137] To date, only Saudi Arabia has ratified the protocol establishing the court.[138]

Overall, the limited emphasis on human rights by Western governments in their relations with the Middle East after the Cold War ultimately did little to push the region to alter its approach to non-interference. By contrast, the War on Terror did elicit some efforts to counter pressure and some institutions that formally compromised on the norm of non-interference. However, because pressure was balanced by the continued geostrategic importance of the region, and because human rights, in actuality, represented a secondary concern of both the U.S. and Western Europe next to regional stability and national security, Arab states engaged in defensive, halfway measures. They failed to delegate actual, challenging enforcement power.

3.5. Failing to meet external expectations

The various mechanisms adopted by the Arab League have failed to meet external expectations for effective and legitimate enforcement. In terms of content, the 1994 Arab Charter on Human

[131] Rishmawi 2005: 362; Sahraoui 2004: 339-340 n4
[132] Rishmawi 2005: 363 n7; Zerrougui 2008: 8-9
[133] Rishmawi 2005: 363; Sahraoui 2004: 340-341; Zerrougui 2008
[134] League of Arab States 2004
[135] Van Hüllen 2015
[136] An-Na;im 2001: 714; International Council of Jurists 2015; Rishmawi 2005: 362
[137] League of Arab States 2014: Article 19
[138] An-Na;im 2001: 714; Rishmawi 2005: 362

Rights includes most of the same rights as other existing human rights treaties.[139] Its most significant deficit is its permissiveness towards derogating from human rights commitments. All human rights treaties allow states to derogate from some of their obligations under some circumstances, but most do not allow states to derogate under any circumstances from core rights like the right to life and the prohibition against torture. However, the 1994 Arab Charter permits derogation from all rights. It also allows this under an extremely wide range of circumstances, including "where prescribed by law and considered necessary to protect national and economic security, or public order, or public health, or morals, or the rights and freedoms of others" as well as "in times of public emergencies."[140] The 2004 charter was regarded as an improvement over the 1994 charter, and it excludes a long list of the rights from permissible derogation.[141]

As for the form of implementation, both the 1994 and 2004 charters fell far short of existing external expectations. The 1994 charter created a new Arab Human Rights Committee, this one made up of human rights experts nominated by states but working in their individual capacity. However, the only power that the Committee was given was to receive and comment on reports by states (presumably on their implementation of the charter, though the intended content or purpose of the reports is not actually specified). The Committee also has the authority to issue inquiries to states in response to their reports. All reports are given to the Arab Permanent Committee on Human Rights, but the charter gives no indication of what that committee might then do with them.[142] Finally, the Committee can hold meetings in member states, which in the case of the Organization of American States is the basis for their ability to carry out in-country visits. The crucial shortcoming of the committee is that it can receive neither individual nor state communications of human rights violations, and it has no investigatory powers beyond examining reports provided by the states. As noted above, the charter was not ratified by a single state.

The 2004 Charter created yet another new human rights commission, the Expert Human Rights Committee, with powers that are in some ways an improvement on the 1994 committee. The members of the Expert Committee are also to be persons with competence in human rights working in their individual capacity. They are to receive reports from states on "measures they have taken to give effect to the rights and freedoms recognized in this Charter and on the progress made towards the enjoyment thereof." The committee is even authorized to consider the state reports in public, and the reports the committee prepares in response are to be public documents which the commission should "disseminate widely."[143] At the same time, the committee still lacks the basic ability to receive complaints of human rights violations, even from states.

Finally, on paper, the Arab Court of Human Rights has the most extensive power, as it can receive complaints of human rights violations and issue binding decisions on their findings. However, its primary competence relates only to complaints made by states. As noted above, state parties to the court can also make a separate declaration to allow the court to receive complaints from NGOs. However, states are allowed to pick and choose which NGOs may do so, and only NGOs that are accredited by a member state are allowed to do so. Both conditions place

[139] Al-Midani *et al* 2006: 148
[140] League of Arab States 1994: Article 4(A) and 4(B)
[141] Rishmawi 2005: 364; League of Arab States 2004: Article 4; Zerrougui 2008
[142] League of Arab States 1994: Article 41(1)-(3)
[143] League of Arab States 2004: Article 48

a serious limitation on access to the court.[144] Regardless, as noted, states have not actually been willing to accept the authority of the court.

4. Conclusion

States in the Middle East were never confronted with any real challenges to their self-determination over human rights. During the initial period of attention to human rights in the 1970s and 1980s, there no credible threats that states in the Middle East would face real, costly enforcement for human rights violations. This continued after the Cold War. Even after the start of the War on Terror, the threat of intervention by the U.S. was only rhetorically tied to human rights. In reality, the main concern for all Western states throughout this time was terrorism, stability, access to oil, and Middle Eastern peace. In later periods, outside pressure were more pronounced, but it continued to be limited by strategic concerns, as well as by patterns of dependence between the Middle East and Western states that are far more symmetric than for other regions in the Global South. As a result, regional institutionalization of human rights occurred later, and regional mechanisms have been designed in ways that are far less challenging to state governments than those in Latin American and Africa.

Looking at the regional human rights initiatives put forward beginning in the late 1960s, and the way these initiatives came to a halt in the early 1970s, it may be more correct to say that the human rights movement of the 1970s short-circuited the development of Arab human rights mechanisms. The developments in other regions like Latin America and Africa made member states suddenly conscious that human rights mechanisms could be a threat to state governments right at the moment when states in the Middle East were on the precipice of creating more challenging mechanisms.

It bears emphasizing that the members of the League of Arab States have remained more uniformly authoritarian than other regions, and this factor cannot be removed from an understanding of the development of human rights mechanisms within the region. Yet, in line with other research focused on how international actors can undermine domestic liberalization, the findings in this chapter suggest that the persistence of authoritarianism in the region, rather than simply a cause of the lack of human rights institutionalization, may itself be an outcome of external forces that both undermine domestic liberalizing forces and that encourage the idea that human rights is a Western idea being foisted upon other parts of the world. In the latter case, this has made human rights promotion more difficult for actors within the region, who contend with charges that they are puppets of the West.[145] High levels of authoritarianism and the lack of regional human rights institutions may thus be intertwined with one another and with international factors in a far more complicated way than is often recognized.

[144] International Commission of Jurists 2015
[145] Chase and Hamzawy 2008: 12-13; Dwyer 1991

Chapter 9. Conclusion: Self-Determination in International Politics

In the introduction to this dissertation, I said that was going to offer a different understanding of the purpose of regional organizations in the Global South—why states created them, what they hoped to accomplish, and the purposes for which they use them. As I have argued, one important reason they were created, and an ongoing goal of these organizations in the decades after independence, was to increase the capacity for self-rule.[1] Self-determination over international rules is an important political goal. As I have shown in the case of international human rights, states engage in collective action in pursuit of self-determination as they would in pursuit of any other end that they value. Like other goals that states cooperate towards, they may attempt to achieve it by delegating sovereign authority and accepting international interference.

To the extent that self-determination is a distinct cause of state behavior, certain behaviors and outcomes at the international level cannot be fully explained without accounting for it. The importance of self-determination for political actors helps to account for why states that had only recently achieved self-rule in the form of sovereign independence would turn around and give up pieces of that independence by creating mechanisms to enforce human rights. In fact, it bears repeating how close the changes in human rights enforcement in the 1970s and the subsequent move to create regional human rights mechanisms were to the end of decolonization. The wave of decolonization that crested in the 1960s had a long tail, extending well into the 1970s, with the independence of Portuguese colonies in Africa, the remaining territories in the Gulf peninsula, and the last of the small, Caribbean and Pacific island states. In other words, these regions had only just consolidated their independence when they made the decision to turn around and surrender some of this newly won sovereign authority by developing and expanding regional mechanisms for human rights enforcement.

In this rest of this chapter, I briefly summarize my argument and main findings, including revisiting the concept of self-determination over international rules, how it differs from sovereignty, and why political actors would care about it. I highlight the main empirical findings. I then explore the implications of the theory and findings to international relations theory and to explaining contemporary dynamics in international politics. These include the importance of self-determination and participation in understanding challenges to the liberal international order from states in the Global South, the continued expansion of regionalism, and the shape of international norms.

1. Argument and main findings

In this dissertation, I argued that the decision by leaders in Latin America and Africa to compromise on the norm of non-interference should be understood, in part, as a way of achieving self-determination. Leaders that had previously argued for strict respect for the norm of non-interference made the decision to create, accept, and expand regional mechanisms to enforce human rights, including enforcement that involved accepting interference in their domestic affairs. They did so in order to ensure their ability to influence and meaningfully

[1] Getachew (2019) discusses this idea as international nondomination. The distinction between this concept and concept of self-determination over international rules is discussed in Chapter 1.

participate in the design and implementation of human rights enforcement to which they were subject, and to limit the imposition of enforcement.

To make this argument, I extended the concept of self-determination to incorporate self-determination over international rules. As I conceptualize it, this aspect of self-determination requires that states have the ability to domestically affirm international rules to which they are subject and to meaningfully participate in their implementation. This is distinct from sovereignty, because it requires that states have the ability to make meaningful decisions over how their sovereignty is exercised, including whether to surrender pieces of it to the international level.

Leaders, elites, citizens, and domestic interest groups have reason to value self-determination over international rules because this is the avenue through which they exercise influence and accountability over international rules that affect them. In fact, the evidence I provided shows that resistance to challenges to self-determination and attempts to maintain and increase it in response to these challenges explain important aspects of the shift from non-interference to regional enforcement in the Global South. This includes when and whether this shift occurred. In the 1970s, Western governments began to enforce human rights in the Global South through the widespread and institutionalized incorporation of human rights into decision-making on loans, aid, and trade. These policies challenged the self-determination of states that were subject to them. They were imposed through the exploiting of recipient states' dependence and material weakness, and they drastically limited the ability of recipient states to influence or participate in decision-making surrounding their implementation. These new policies also directly clashed with many of their own human rights and foreign policy priorities relating to the right to self-determination, the right to development, and the New International Economic Order, according to which things like development assistance and preferential trade access were a duty of developed states and an entitlement of developing states. However, because of the contexts in which these enforcement policies were being carried out, states on the receiving end of them could not stop them from being applied.

These new measures presented interventionist enforcement of human rights as the new status quo, altering the decision-making calculus of states from *whether* human rights should be enforced to *who* would do so and *how.* As I showed in Chapters 6 and 7, it was in response to these new pressures that leaders in Latin America and Africa made the decision to compromise on the norm of non-interference within their regions. By doing so, they attempted to establish their regional organizations as authorities over human rights. This included persuading actors outside of the region to accept, listen to, and even defer to regional organizations on issues of human rights within their regions. These pressures did not occur evenly, appearing in different regions at different times. In some regions, namely the Middle East and Southeast Asia, they did not appear at all.

In Latin America, the 1973 overthrow of Salvador Allende in Chile focused unprecedented international attention on human rights violations of Latin American dictatorships. Western governments were challenged by transnational advocacy networks to do something about these human rights violations, and they responded by making human rights a part of their economic relations with Latin America. Challenges to their self-determination also manifested in the region's disproportionate targeting within the U.N., where Latin America was singled out for enforcement by a coalition of non-aligned, Soviet, and Western and Northern European states. This coalition effectively blocked Latin American states from participating in decision-making on human rights enforcement in their region. Latin American governments responded to these two developments by ratifying the American Convention on Human Rights

en masse, expanding the powers of the Inter-American Commission on Human Rights, cooperating with the Commission's investigations, and discussing and issuing condemnations of human rights violations in their intergovernmental bodies.

In Africa, these policies appeared several years later. African states first began to face pressure after Idi Amin's brutal government in Uganda came to the attention of the international public in 1977. Western European states and the European Community were faced with criticisms over their development aid and trade relations with Uganda, which was organized through the Lomé Convention, an association agreement with Africa, Caribbean, and Pacific (ACP) states. This convention did not permit suspension of economic benefits on account of human rights. Because of this, European states moved to add language to Lomé that would permit suspension of aid and trade benefits in response to human rights violations for all states that received assistance through the convention. African states, together with the other ACP states, first responded by arguing that this would represent inappropriate interference in their domestic affairs. However, in the face of continued pressure and sensing that human rights enforcement was coming one way or another, they changed their approach, adopting and creating the African Charter on Human and People's Rights and the African Commission on Human and People's Rights. When the region faced renewed pressure following the end of the Cold War, African states again responded by expanding their regional organization's authority: addressing human rights in intergovernmental bodies, increasing their cooperation with existing mechanisms, and creating a human rights court.

These pressures did not manifest in all regions of the Global South. In both the Middle East and Southeast Asia, the norm of non-interference prevailed for much longer. In both regions, countervailing interests and interdependence that was more symmetric led Western states to subsume human rights to other foreign policy priorities, including Cold War strategies, access to oil, and stability.

This resulted in very different outcomes for the norm of non-interference in these regions. States in the Middle East created regional mechanisms to enforce human rights much later than in Africa and Latin America. It was not until the onset of the War on Terror that the members of the Arab League began to create and accept regional human rights mechanisms. Even then, the mechanisms they have created were designed with much more limited authority and are subject to greater state control. They fell far below basic expectations of effective enforcement. It remains to be seen whether the independence of the members of the Expert Human Rights Committee will be able to push beyond their limited mandate, and whether states will permit them to do so or collaborate with their efforts. Finally, in Southeast Asia, the norm of non-interference has remained completely intact. Human rights mechanisms that have been created since 2009 are based purely on non-binding commitments and intergovernmental cooperation in support of promoting human rights. There is no regional enforcement regime.

In both Latin America and Africa, regions where this change towards regional enforcement did happen, certain dynamics of institution-creation and the behaviors of individual states confound the expectations of existing explanations for why states would delegate this kind of authority. First, there is extensive evidence that states and leaders that genuinely supported human rights also criticized and pushed back against the imposition of what they regarded as inappropriate, one-sided, and biased enforcement that excluded them from equitable participation.

Second, in both Africa and Latin America, I find that the onset of these outside pressures aligned with the timing of the decision to compromise on non-interference, as well as with

changes in individual state behavior. Prior to these pressures, human rights proponents were often among those states that expressed ambivalence towards compromising on non-interference on account of the protection that this norm offered weaker states. This was exemplified by the Colombian government reminding the U.S. of the importance of considering how policies to intervene to enforce human rights would affect "smaller and defenseless nations."[2] Similarly, the representative of Mauritius cautioned that "it would be better that we each put our own house in order" rather than focus on human rights violations in other states.[3] This is not to say that human rights proponents uniformly placed the norm of non-interference over human rights before these challenges to their self-determination. Yet, they were also far from as wholeheartedly in support of international human rights enforcement as many existing theories might expect, and they showed considerable concern about the long-term implications of compromising on the norm of non-interference.

After the onset of these challenges to their self-determination, both states that supported human rights and those that stood to be the most challenged by their enforcement suddenly became willing to accept regional enforcement. In fact, the most counterintuitive finding in this dissertation is that, after the start of these pressures, human rights opponents and proponents responded by cooperating with one another to establish their regional organizations as authorities over human rights. States that were abusing human rights began to open themselves up to scrutiny and criticism within their regions. In Latin America, both proponents and opponents of human rights began to collectively condemn human rights violations within the region and cooperate with enforcement while criticizing forms of enforcement coming from outside of it. This was in spite of the fact that in 1976, when they first moved to discuss and condemn human rights violations in Chile, fewer than 40% of states in the Organization of American States were democratic. In Africa, human rights proponents initiated the process of creating regional human rights mechanisms, and they were responsible for shepherding the process along. Yet, these mechanisms were adopted unanimously by a membership that had very few democracies and included governments that were worried about how human rights enforcement would affect them.

Finally, my findings complicate expectations that states prefer regional enforcement because they view it as more legitimate or more compatible with regional norms. In fact, I do find evidence that states preferred to use regional treaties and enforcement to lock in reforms, send costly signals of their regime type, and attract material benefits. There were many instances in which states argued for regions as uniquely well-suited to dealing with their own human rights problems, and these behaviors were exhibited by states that did not clearly benefit from regional enforcement. At the same time, states did not reject outside enforcement outright. Both before and after these shifts, human rights proponents engaged with and expressed enthusiasm towards forms of outside enforcement that allowed for equitable participation and that they did not view as disproportionate or one-sided.

2. Self-determination as a way to understand international politics

What can a story about the origins and design of regional human rights mechanisms, and one that occurred primarily in the 1970s and 1980s, contribute to international relations theory more

[2] *FRUS* 1969, Document 156
[3] U.N. General Assembly 1977g: Para. 43

broadly? What can it tell us about international politics today? Though this dissertation is primarily a historical study, a fuller understanding of the reasons states in the Global South empowered their regional organizations and a recognition of the importance of self-determination has far wider implications and can shed light on a number of contemporary dynamics.

2.1. Delegation, agency, and resistance

A central idea put forward in this dissertation is that much existing theorizing on international cooperation, delegation, and political order has failed to capture the agency of weak states, in general, and states in the Global South, in particular. These theories do not factor in the full range of reasons that weak states might make decisions to delegate authority or comply with the demands of more powerful states. Instead, this research has equated participation in cooperative arrangements and an absence of open contestation or resistance as a sign that weak states view these arrangements as beneficial and legitimate.

However, as I emphasize in this dissertation, weak states make foreign policy decisions in the shadow of power relations. They act with the knowledge that overt contestation and resistance can result in discipline and retaliation and in the expectation that such contestation may have a low chance of success. Because of this, decisions to delegate authority, align policy with more powerful states, and participate in international institutions and political orders are often the product of rational anticipation of discipline or retaliation, along with the absence of alternatives. The concept of self-determination over international rules captures this distinction between types of decision-making and gradations of voluntariness, as well as the limits on the ability to exert influence over global governance.

An example of this dynamic can be found in the acquiescence to liberal economic policies and participation in international financial institutions by Caribbean states. In spite of their participation, leaders of these states have continued to decry liberal economic and free trade policies that they view as having been imposed by the West and that they see as having made them worse off. In 2003, then prime minister of Jamaica P.J. Patterson stated during a speech to New York's Jamaican diaspora that "[w]e must resist any global economic system which allows the rich and powerful to condemn those who are small and weak to a perpetual state of poverty and underdevelopment."[4] In 2011, Sir Shridath Ramphal, a well-respected Guyanese diplomat who served as Secretary General of the Commonwealth of Nations for 25 years, bemoaned liberalization which "ma[kes] no distinction between rich and poor, big and small" and noted the "brutality of the global environment."[5] Collectively, Caribbean leaders regularly argue that their development efforts are undermined by trade rules that limit and dismantle the preferential market access that their small economies rely on[6] and IMF-led demands for domestic economic reforms that they believe have made them worse off.[7] Their continued participation in these economic institutions despite these complaints is the result of their economic dependence.

This matters if states value their self-determination and object to it being undermined. In fact, long-simmering unhappiness with the limits on their ability to exercise self-determination within the liberal international order may help to explain the interest of democracies in the

[4] Patterson 2003
[5] Ramphal 2011
[6] Fridell 2010; Sanders 2007; U.N. General Assembly 2006: 6-7, 22, 26
[7] U.N. General Assembly 2006: 26, 2019: 34-35

Global South in cooperating with illiberal powers in recent years. In the case of Caribbean states, in which democratic norms are deeply institutionalized,[8] the best explanation for increased interest in cooperating with illiberal governments like Venezuela and China may not be that doing so will allow them to engage in undemocratic practices.

Instead, they may be attracted to cooperation with and no-strings-attached aid from these countries because it reflects their beliefs about the inappropriateness of powerful actors using states' dependence to dictate their domestic and foreign policies and their resentment at the forms of control that have been exercised over them. An example of this resentment appeared in 2019, when the U.S. Ambassador to Jamaica publicly expressed concern about the Jamaica's deepening cooperation with the Chinese government, admonishing the Jamaican people to be wary of Chinese aid and loans. An editorial in Jamaica's leading newspaper, the *Jamaican Gleaner*, responded by stating that the ambassador "should be given a message about where Jamaica's foreign policy is formulated, which oughn't be Foggy Bottom."[9] China's influence throughout the Global South must be seen, in part, through the lens of its expansive approach to non-interference, which is much more compatible with self-determination. Similarly, the alternative international order China and other illiberal states have championed is attractive to states that support a more democratic international order that enables equitable participation.[10]

Within an international environment where weaker states face what Krasner characterizes as "external pressures that they cannot influence through unilateral action,"[11] regionalism has been one way that weak states have exercised agency and attempted to compensate for their vulnerability to these pressures. As I showed in this dissertation, delegation to and cooperation within regional organizations can be a way for weak states to mitigate the effects of hierarchy, hegemony, and inequality; manage the involvement of powerful actors in their affairs; and reshape international political orders to their benefit. Regionalism can be a way to push back against external pressures in ways that do not read to powerful states as resistance. In doing so, states employing this approach can increase their ability to participate in their own governance and resist the imposition of authority by more powerful actors.

In fact, one reason for the surge in regionalism following the end of the Cold War may have been the closing of space for outright contestation at the height of American hegemony. This was a time when positive relations with the West, and especially the U.S., took on heightened importance for states in the Global South, and when acceptance of liberal norms as defined by the West was presented to the rest of the world as a *fait accompli*, with compliance increasingly a precondition for access to economic benefits. The expansion of regionalism can be seen as a way to retain some control over global governance in this context.

Seen in this way, cooperation in the post-Cold War years may have been the result of power disparities so large that they looked like consensus, with weak states cooperating because they lacked other options. This builds on scholarship arguing that the idea that the liberal order had widespread public support is what Adler-Nissen and Zarakol refer to as a "historical fiction."[12] As the international system has become increasingly multipolar and states in the Global South emerge as powerful actors in their own right, it has re-opened space for more overt contestation.

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[8] Helfer 2002
[9] MacDonald 2019
[10] Goldstein 2020
[11] Krasner 1985: 4
[12] Adler-Nissen and Zarakol 2020. See also Nye (2017) and Barma *et al* (2013).

2.2. The construction of norms of regional solutions and regional participation

The ideas that regions are, by their nature, effective and legitimate sites for governance and that regions are entitled to special recognition and representation in international decision-making both run counter to the now-well accepted academic understanding of regions as themselves unnatural and socially constructed.[13] The regionalization of human rights makes the unnaturalness of norms privileging regional solutions and participation especially apparent, as regionalism sits in tension with a fundamental tenet of human rights: their universality. Focusing on human rights, I have demonstrated that the idea that regional organizations are especially effective and uniquely legitimate is, in part, the product of active cultivation of this norm by small and weak states. These states benefit from international norms that enhance their participation, influence, and voice over global governance.

Norms of regional solutions and regional participation have been strategically constructed throughout modern history. During the negotiations over the U.N. Charter, it was Latin American and Arab states that not pushed for recognition of regional organizations (or "arrangements"), attempted to establish these organizations as autonomous rather than subordinate to the U.N., and argued for regional representation on the U.N. Security Council.[14] The acceptance of regions as a central link in the democratic legitimacy of global governance has manifested in a number of developments over the past few decades. These include efforts to increase formal coordination between regional organizations and the U.N. and the growing tendency for the U.N. Security Council to consult with and formally recognize the role of regional organizations in their debates and resolutions.[15] This has reconfigured the logic of collective legitimization, with the regional organizations becoming an important source of legitimization for global action.[16]

This is another way of explaining the growth of regionalism since the end of the Cold War. As global governance has spread into more issue areas, many of which touch on sensitive aspects of states' domestic politics, the scope and authority of regional organizations has likewise grown.[17] The regional organization the Caribbean Community, an organization created to facilitate economic cooperation and free trade among Caribbean states, sent election observers to Haitian elections in 1990. In 1994, it contributed peacekeeping troops as part of the U.S. operation to return ousted Haitian president Jean-Bertrand Aristide to power.[18] In 2012, the Lake Chad Basin Commission, a small regional organization created for the narrow purpose of coordinating sustainable use of its eponymous natural resource, created the Multinational Joint Task Force to counter terrorism in the region.[19] After years of backlash against the perceived targeting of Africa by the International Criminal Court, in 2014, African states expanded the jurisdiction of the African Court of Human and Peoples' Rights to include international criminal law. These developments can all be understood as attempts by states to establish their regional

[13] Adler *et al* 2006; Dirlik 1992; Hurrell 1995; Hemmer and Katzenstein 2002; Hettne 2005; Hettne and Söderbaum 2000; Waever 1993
[14] MacDonald 1965: 4-11, 19
[15] Barnett 1995a; Bellamy and Williams 2011; Hettne and Söderbaum 2006
[16] Barnett 1995a: 428; Claude 1966
[17] Acharya and Johnston 2007; Barnett 1995a; Börzel and Risse 2016; Börzel and van Hüllen 2015; Buzan and Waever 2003; Fawcett 2004; Fawcett and Hurrell 1995; Fawcett and Seranno 2005; Katzenstein 2005; Kelly 2007; Milner and Mansfield 1997; Hettne 2000; Hettne *et al* 1999; Söderbaum 2016; Söderbaum and Shaw 2003
[18] Smith 2005: 183
[19] Baffour Frimpong 2020

organizations as authorities over issue areas in which there is an expectation of pressure from more powerful states.

There are many factors that have led to the parallel expansion of regional and global governance, including learning, emulation, and mimicry.[20] However, this dissertation suggests that the expansion of regionalism throughout the Global South and arguments in favor of norms privileging regional organizations are, in part, strategic efforts of weaker states that benefit from carving out space for regional policymaking and representation. As global governance has expanded, the growth of regionalism can be seen as a way for states to retain, via their regional organizations, influence over global policy and, by extension, over their own governance. In this way, regionalism represents a joint effort to quietly resist outside pressures, expand the scope of global governance in ways that ensures their influence, and assert their own voice within global spaces. In this process, weaker states have succeeded in teaching powerful actors to defer to or listen to regions. As Hettne and Söderbaum discuss, one aspect of the transformation of global governance in the post-Cold War era was a growing acceptance of regional organizations as autonomous actors with authority over their geographic domains.[21]

The success of weak states in establishing norms of regional solutions and regional participation can also help account for another phenomenon that has received growing scholarly attention: the expansion of what are referred to as authoritarian regional organizations. Whereas international organizations have historically been tools of democratic states, in recent years, authoritarian leaders have increasingly developed and utilized these organizations for coordinating and legitimizing repression and aiding authoritarian survival.[22]

One prominent example is the Shanghai Cooperation Organisation (SCO), which was created in 2001 by China, Russia, and the countries of Central Asia. In 2009, under the aegis of the SCO, states formed the Regional Anti-Terrorism Structure (RATS) and signed a convention that, among other things, provides a legal basis for agents of member states to enter the territory of another to pursue a suspect.[23] The SCO's Astana Declaration of 2005 states that members will "not provide asylum for individuals accused or suspected of conducting terrorism, separatist and extremist activity, and [will] extradite such individuals at respective requests on the part of other SCO member states,"[24] allowing for extradition of members of the opposition who have sought asylum in neighboring states. Human rights groups have complained that these and other mechanisms are being used by states for the purpose of cooperating to suppress domestic dissent.[25] Similarly, members of the Gulf Cooperation Council (GCC) signed a Joint Security agreement in 2012, during the Arab Spring, to aid one another in intelligence sharing, to assist in monitoring one another's political opposition, and to facilitate extradition of political domestic opponents.[26]

One important reason for this development may be that the authoritarian leaders that create and make use of these organizations are riding the tailwinds of successful efforts by states in the Global South to assert the legitimate authority of regional organizations. Authoritarian

[20] Börzel and Risse 2016; Börzel and van Hüllen 2015; McNamara 2002; Meyer *et al* 1997; Meyer and Rowen 1977; Risse 2016; van Hüllen 2015
[21] Hettne and Söderbaum 2006
[22] Cooley 2015; Debre 2021; Ginsburg 2020; Hafner-Burton and Schneider 2019; Libman and Obydenkova 2018; Obydenkova and Libman 2019; Roberts 2017
[23] U.N. Office on Drugs and Crime. n.d.
[24] Shanghai Cooperation Organisation 2005: Article III
[25] International Federation for Human Rights 2012
[26] Carlson and Koremenos 2021

leaders are experts at adapting their survival strategies to new approaches. After decades of states pushing for powerful actors to accept the legitimate right of regional organizations to manage regional affairs, it is perhaps unsurprising that authoritarian leaders would capitalize on this legitimacy for their own purposes.

This raises a number of questions for future research. Why is it that some regional organizations that include a large proportion of authoritarian members evolve towards political liberalization and some do not? How do scholars distinguish legitimate norm localization within the framework of regional organizations, which consists of genuine contestation between global and local norms, from cynical attempts to legitimate repression and hide bad behaviors? It also cautions against painting with too broad of a brush in applying the label of "authoritarian regional organization." It is important to distinguish between organizations that aim to subvert international norms and those that were created for legitimate self-governance, even where the latter includes authoritarian members. For example, African regional and subregional organizations are sometimes labeled as authoritarian organizations in spite of the fact that historical evidence, including evidence presented in this dissertation, suggests that they were not created for dubious authoritarian purposes, but rather to support cooperation between weak states, create economies of scale, and consolidate their region's independence.

2.3. Human rights, participation, and the shape of norms

A final implication of this dissertation relates to theories of human rights and international norms, more broadly. Whether or not different actors are able to meaningfully participate in the formation and elaboration of norms effects the shape that international norms come to take over time. As Ayoob notes, "the question of agency—who constructs and codifies human rights—becomes important" as "those who define human rights and decree they have been violated also decide when and where intervention to protect such rights should and must take place."[27] Where weaker states lack the ability to effectively participate, it can lead to the marginalization and exclusion of their priorities and beliefs from norms as they are consolidated and institutionalized at the global level.

Many scholars contest the idea that international norms, and human rights in particular, have been imposed upon weaker or smaller states. It is true that the beliefs and values of weaker states are often captured in the content of global norms against the interests of more powerful actors.[28] Yet, it is nevertheless the case that weaker states face disadvantages in shaping norms.[29] Even when global norms overlap with regional or local perspectives in terms of content, weaker states may still be shut out of the political process of design, elaboration, implementation, and enforcement. These disadvantages can lead to the exclusion of understandings of norms that are especially challenging or unacceptable to powerful actors as they are consolidated at the global level. In the case of human rights, this has included the marginalization of the concept of international responsibility, which requires international wealth redistribution and sets strict limits on the use of economic pressure as a means of enforcing human rights. It is important to recall the degree to which the human rights priorities of the Global South during the Cold War, which had been developing long before human rights were institutionalized in the 1940s, were

[27] Ayoob 2002: 81
[28] Acharya 2013; Finnemore and Jurkovich 2014; Klotz 1995; Sikkink 2014
[29] Abbott and Snidal 1998; Bailey 2008: 304-305; Barkin 2003; De Nevers 2007; Donno 2010; Grovogui 2011b: 43-44; Ikenberry and Kupchan 1990

pushed aside in favor of liberal economic policies and a purely domestic understanding of human rights.[30]

In fact, a conception of human rights in which powerful, wealthy states bear direct responsibility for violating and realizing the human rights of people in poorer, weaker states is fully consistent with the basic theoretical underpinnings of human rights. These hold that human rights inhere in human beings by merit of their humanity, that this humanity entitles one to a life of dignity, and that human rights bring rise to corresponding duties to realize these rights.[31] By contrast, the idea that human rights are realized through domestic action by state governments cannot be inherent to human rights, as the nation-state is a historically determined political form. In fact, one of the important distinctions between human rights and citizenship rights is that human rights exist independent of citizenship or of any particular nation-state.[32] Instead, a domestic understanding of human rights came to be through the pushing out of its international counterpart by the very states that stood to be held accountable.[33]

This kind of marginalization may have long-term effects on how states perceive and engage with norms. Research on international norms does not account for what happens to those goals, priorities, and aspirations that are excluded from consolidated versions of global norms. The mechanisms that lead to the spread of norms, including socialization, diffusion, and learning, do not remove the material or historical conditions that brought about local perspectives on norms in the first place. If local perspectives respond to real, salient problems, then there is good reason to expect that they will persist.

This may help to explain the re-emergence of demands for a model of human rights that holds developed states responsible for violations of human rights in developing states. This re-emergence has included a recent increase in demands from the Global South for former colonial powers to provide reparations to formerly colonized states to compensate for the damages of colonialism, slavery, and native genocide, which have been framed expressly as a human rights movement.[34] The persistence of domestic poverty and under-development, the reality of massive global inequality, and the historical fact that both of these came to be, in part, through centuries of slavery and colonization has kept this way of understanding human rights alive for people in many parts of the world. Its marginalization in spite of its broad salience and appeal may also explain backlash against international norms, with domestic actors feeling increasingly unrepresented by global norms and the actors and institutions that propagate them.

Bringing this back to discussions of regionalism, one way that weak states have responded to difficulties in meaningfully participating at the global level is through delegating authority to engage with and enforce norms to their own regional organizations. One example of this is the codification of the right to development in the African Charter on Human and Peoples' Rights at a time when more powerful states refused to recognize this right.[35] In this way, norm localization, in terms of infusing the content of norms with local beliefs and values, may not always be the primary aim of creating regional mechanisms. It may instead be the outcome of vesting authority for norm elaboration, implementation, and enforcement in institutions that offer greater possibilities for participation by a wider range of actors.

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[30] Whyte 2019
[31] Donnelly 1986; Grovogui 2006
[32] Ayoob 2002
[33] Beall forthcoming
[34] CARICOM Reparations Commission 2021
[35] Alston 1988; Cornwall and Nyamu-Musembi 2004; Ibhawoh 2011

3. The Future of Self-Determination

This study was primarily focused on attempts to realize self-determination during and in the immediate aftermath of the Cold War. However, self-determination over international rules continues to be an important goal of states in the international system. In fact, though explicit demands for self-determination over international rules largely receded in the immediate post-Cold War period, they have since re-emerged in the U.N. General Assembly. In 2001, the U.N. General Assembly adopted a resolution calling for the creation of a "democratic and equitable international order" whose central elements include "[t]he right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development," along with the "promotion…of transparent, democratic, just and accountable international institutions…through the implementation of the principles of full and equal participation in their respective decision-making mechanisms."[36] This has become an annual item on the General Assembly's agenda, and voting on these resolutions has fallen across North-South lines. In 2001, when the resolution first appeared, all OECD countries voted no on the resolution, while all but ten states from the Global South voted yes.[37] As before, democratic states in the Global South continue to be important supporters of self-determination at the international level.

An important point I have developed is that self-determination is not the same as sovereign independence. International conditions can undermine the self-determination of sovereign states in ways that are both overt and subtle. To the extent that self-determination was not fully consolidated in the Global South in the process of decolonization, it will likely continue to be an important motivation for states and their citizens and an important explanatory factor in international relations.

Recognizing this draws attention to the ways that the agency of weaker states can be quietly undermined, along with the ways that states can respond to these challenges. This includes using regional organizations to increase their voice and influence via the authority of regional organizations. Weaker states are not without power, though they may have different options and strategies available to them for exercising power. Recognizing the limitations that these states operate under is a core part of uncovering their agency in the international system, including how they respond and adapt to structures that limit their freedom of movement but make available other possibilities for action.[38]

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[36] U.N. General Assembly 2001: 3(a), 3(g)

[37] For example, in voting over this resolution in 2008, all European and OECD countries voted no. By contrast, from the Global South, only the Marshall Islands, Micronesia, Palau, and Samoa voted no, and only Vanuatu, Argentina, Chile, Mexico, Peru, and Timor-Leste abstained. Voting information taken from the U.N. Digital Library's voting records repository, available at: {https://www.un.org/en/ga/documents/voting.asp}.

[38] For a discussion of the international structures, especially of hierarchy, that weak states operate within, see Adler-Nissen and Zarakol (2020) and Mattern and Zarakol (2016).

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