



**AALBORG UNIVERSITY**  
DENMARK

**Aalborg Universitet**

## **Human Rights in International Development Co-Operation**

*Between Politics and Policy*

Tomasevski, Katarina

*Publication date:*  
1999

*Document Version*  
Publisher's PDF, also known as Version of record

[Link to publication from Aalborg University](#)

*Citation for published version (APA):*  
Tomasevski, K. (1999). *Human Rights in International Development Co-Operation: Between Politics and Policy*. Institut for Historie, Internationale Studier og Samfundsforhold, Aalborg Universitet.

### **General rights**

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal -

### **Take down policy**

If you believe that this document breaches copyright please contact us at [vbn@aub.aau.dk](mailto:vbn@aub.aau.dk) providing details, and we will remove access to the work immediately and investigate your claim.

---

# **Human Rights in International Development Cooperation: Between Politics and Policy**

**Katarina Tomaševski**

DEVELOPMENT RESEARCH SERIES  
RESEARCH CENTER ON DEVELOPMENT  
AND INTERNATIONAL RELATIONS (DIR)

WORKING PAPER NO. 69

---

© 1999 Katarina Tomaševski  
Research Center on Development and International Relations (DIR)  
Development Research Series  
Working Paper No. 69

ISSN 0904-8154

*Published by*  
DIR & Department of Development and Planning  
Aalborg University

*Distribution*  
Department of Development and Planning  
Secretariat, room 36  
Fibigerstraede 11  
DK-9220 Aalborg East  
Phone + 45 96 35 84 19  
Fax + 45 98 15 65 41

*Lay-out and wordprocessing*  
He He

*Print*  
Centertrykkeriet, 1998

*The Secretariat*  
Research Center on Development and International Relations  
att: Secretary Marianne Hoegsbro  
Fibigerstraede 2  
Aalborg University  
DK-9220 Aalborg East  
Denmark

Tel. + 45 96 35 98 10  
Fax. + 45 98 15 32 98

E-mail: [hoegsbro@i4.auc.dk](mailto:hoegsbro@i4.auc.dk) or [jds@i4.auc.dk](mailto:jds@i4.auc.dk)  
Homepage: [www.i4.auc.dk/development](http://www.i4.auc.dk/development)

# **Human Rights in International Development Co-operation: Between Politics and Policy**

**Katarina Tomaševski<sup>1</sup>**

## **Introduction**

The rhetoric of international development co-operation of the 1990s promises to enhance human rights in aid receiving countries while, in practice, potential aid recipients are penalized for human rights violations through aid cutoffs. These two facets of international development co-operation pressurize it in opposite directions: policy points in the direction of aid in order to help states improve human rights protection, while politics points in the opposite, namely punitive direction, the imposition of economic sanctions as a response to human rights violations. This requires posing the inevitable question: can human rights be promoted through the granting of aid as well as through its denial? Although one would intuitively discard a possibility of trying to achieve the same end by using mutually contradictory means, the contemporary pattern of international development co-operation reveals a mismatch between its rhetoric and its practice, thus necessitating the posing of this question. This paper argues that the main reasons for this mismatch between rhetoric and practice lie in the simultaneous but separate development of aid, development and human rights during the past decades. Their rhetorical merger has not been based on their conceptual integration but rather on a mosaic of diverse, often mutually conflicting, ends and means. This rhetorical merger created, however, expectations which are continuously contradicted by aid practice. This paper chronologizes the separate evolution of development, human rights and aid, discusses their rhetorical merger, and highlights the main obstacles for a unified global policy that would translate rhetoric into reality.



The rhetoric of international development co-operation is generated within inter-governmental political bodies, while operative rules defining development and moulding aid to fit the constantly changing definition of development originate from inter-governmental bodies which are dealing with economic governance. The abyss between political and economic governance is evidenced in the rhetoric of international development co-operation (generated by the General Assembly of the United Nations) which is not reflected in the pattern of aid because the latter emanates from the operative rules established by the international donor community. The third area, human rights, is governed by yet another set of separate substantive and procedural rules, which combine political governance with law-making while increasingly excluding economic governance. Merging the three, as the rhetoric of international development co-operation has apparently done, creates a bewildering mosaic of appearances and realities, which this paper tries to disentangle, describe and discuss in order to reconstruct the path thus travelled and highlight the reasons for the many contradictions created through this process.

Reality, being unruly, does not readily fit into a coherent conceptual framework. The language of international development co-operation, developed on the basis of the UN Charter, becomes aid already at the level of the donors' statistics.<sup>2</sup> The employed rhetoric, the underlying concepts, and the structures and processes through which the officially proclaimed policy is interpreted and applied requires a study on three levels. At the global level, one might be tempted to refer to 'the international community' as an entity within which international policy concerning development co-operation is generated, but two distinct sets of policies emerge from entities where both recipients and donors are represented and those where the donor countries have the sole or decisive voice. These two separate and different processes defy a reference to a 'global governance' that would establish a blueprint for development and aid. At the level of an individual donor country, the

formulation of development co-operation (or aid) policy reflects the multiple expectations upon it, from the alleviation of poverty in developing countries to the export of donor's products and services, from the advancement of women through separate funds and project to the enhancement of human rights by aid suspensions or cutoffs. It is at this domestic level that the complexity of international development co-operation emerges in full: aid policy routinely combines diverse and often contradictory ends and means, while its practice routinely reflects the dynamics of domestic politics rather than the officially proclaimed aid policy. The thrust of this paper is to analyse the interplay between aid, development and human rights from the human rights perspective. It argues that human rights were designed as safeguards against the abuse of power by the state, aiming to protect individuals against their own government. The addition of human rights to the existing aid policies in the 1970s removed human rights from their original purview - they were to be promoted and/or protected by a government other than one's own. The lack of political accountability or legal responsibility of a foreign government with regard to the human rights of people it has rhetorically committed itself to promote and/or protect created the background for the contemporary confusion. It is possible for donors to claim that they are promoting human rights in other countries through their aid as well as to assert that they are protecting human rights in other countries by denying them aid. People whose rights are in question have neither political rights through which they could hold the donor accountable nor access to a legal remedy through which they could hold that donor responsible for violating their rights.

### **Evolution of the basic terms and underlying concepts**

An inquiry into the fate of human rights fare in international development co-operation necessitates tracing the evolution of the basic concepts, those of development and human rights, and then looking at international development co-

operation (or aid) as a framework within which the two overlap. The haphazard evolution of the three key concepts - development, rights and aid - as separate items on the agenda of the United Nations makes such an approach difficult but not impossible. Aid and human rights had appeared with the birth of the United Nations but the term 'development' followed later, to obtain its political weight in after the first wave of political independence for former colonies in the 1960s, to become the political battleground in the 1970s.

In an ideal world, human rights would be defined as the end and means of development and the process of development would be facilitated through international co-operation. In this world of ours, human rights and development have been subjected to endless attempts at a merger (notably through the right to development) none of which succeeded. International development co-operation underwent numerous ups and downs, never coming close to meeting the existing needs and in the 1990s threatening to disappear through its constant downwards trend.

The linkage between human rights and development co-operation was forged negatively, through the institutionalization of a punitive linkage between human rights violations and aid flows. This had first been done bilaterally in the 1970s and in the 1990s on the multilateral level. This punitive linkage aimed at dissociating the donor countries from abuses carried out in the recipients of their aid. This orientation has been followed by donors (both bilateral and multilateral) ever since.

Paradoxically, the conceptual linkage between development and human rights was argued in the 1970s in terms of rights of states within the United Nations, intending to affirm the rights of the developing countries against the industrialized countries. The battle for a new international economic order tried to replicate the human rights

rationale to inter-state relations. This undermined rather than enhanced the status of human rights in development because their original purpose - to protect individuals against abuse of power by their state - was marginalized.

The role of states as protectors of their populations in inter-state relations is as old as international law itself. It did not benefit from the addition of the human rights language, while undermining it through the removal of this discourse to a subject-matter for which it was not intended. At the time when the first donors' practices introduced the punishment of a whole country through denials of aid for human rights violations by its government, the blurring of the distinction between the government and the population through the use of the rights-language for both further confused issues. Recipient governments were asserting their right to claim aid in the name of their population, while the potential donor justified denials of aid to those governments, also in the name of the rights of their population. This over-extension of the rights-language undermined the original purpose of human rights to protect the population from abuses of power by governments.

The apparent initial human-rights commitment was attained within the United Nations in 1946-48 but it led to condemning individual governments as violators in 1967 and was followed in 1970 by the empowerment of the UN to investigate violations. Economic sanctions preceded multilateral determinations of violators or violations, however. Economic sanctions were institutionalized as a response to violations in the 1970s, reinforcing and globalizing donors' unilateralism in the 1990s. This created two parallel tracks, with the United Nations condemning violators by a majority vote and rarely following this up with economic sanctions, while the international donor community (led by the USA as it used to be the biggest donor in the previous decades) globalized unilateral identifications and punishment of violators following the US model.

International development co-operation originated from the post-war commitments towards building an international community (exemplified by the United Nations) through joint efforts of states. The UN Charter committed individual member states to the protection of human rights as well as to their promotion through international co-operation. The term 'development' did not exist at the time because a minute minority of the UN's early membership were developing countries. With the process of decolonization the number of developing countries grew and with it their political-voice within the United Nations. A large number of policy-documents have been adopted to sculpt international development co-operation for the benefit of developing countries. Such policies have routinely been adopted by majority vote and resisted by the minority of donors, who have been the principal addressees. Co-operation remained discretionary, dependent on the decision of each donor country as to who to co-operate with, why and how, and thus subject to domestic political processes. Donors' policies were (and are) similar in their affirmation of a commitment to the eradication of poverty, or improvement of living conditions, or, more recently, human rights. Donors' practices, however, reveal a great deal of difference in the meaning attributed to such commitments, whether it is human rights or development.

## **Development**

The word *development* did not exist when the United Nations was established as the embodiment of the international community. The Charter committed the UN to 'solving international problems of an economic, cultural or humanitarian character' but a proposal to establish an Economic and Employment Commission to deal with 'economic development of under-developed areas,'<sup>3</sup> had been rejected before the UN was set up. The term *developing countries* was first used in 1960, and one year later the US President proposed a United Nations Development Decade. His

proposal was accepted, and the UN Development Decade launched 'as the first world-wide effort to give substance to the solemn undertaking, embodied in the Charter of the United Nations, to promote social progress and better standards of living in larger freedom.'<sup>4</sup>

Table 1, *Changing visions of development: The four United Nations Development Decades*, illustrates how much the definition of what development should be has changed. Aid, or international development co-operation, changed as well, conforming to the vision of development at the time. In the 1960s the terminology was blurred and under-developed countries was used alongside developing countries, the path towards development was seen in industrialization, while the role of the state in directing developed was reflected in the prominence of development planning. The 1970s were defined by the battle for (and against) a new international economic order and the potential for the developing countries found in their natural resources. Social development was defined as modernization. The 1980s marked a wide gap between the rhetoric of international development co-operation and its practice. The rhetoric affirmed 'greater flows of financial resources' and 'additional external resource transfers' to the developing countries, while the practice introduced structural adjustment programmes which led to reverse resource transfers through debt repayment. By the 1990s, human rights for the first time entered the UN's development planning rhetoric, which attempted to continue optimistic projections ('accelerated development' or 'strengthened international co-operation'), uninhibited by the failure of the previous three development decades.

Initial proposals had been made between 1957 and 1961 to 'formulate a statement of the economic objectives of the United Nations and the principles of international cooperation best suited to promote them'<sup>5</sup> but this was never done.



Table 1: Changing visions of development: The four United Nations Development Decades

<p>United Nations Development Decade GA res. 1710 (XVI), 19-12-1961</p> <p>... the solemn undertaking embodied in the Charter of the United Nations to promote social progress and better standards of life in larger freedom and to employ international machinery for the advancement of the economic and social development of all peoples</p> <p>[The General Assembly] designates the current decade as the United Nations Development Decade in which member States and their peoples will intensify their efforts to mobilize and to sustain support for the measures required on the part of both developed and developing countries to accelerate progress towards self-sustaining growth of the economy of the individual nations and their social advancement so as to attain in each under-developed country a substantial increase in the rate of growth, with each country setting its own target ...</p> <p>(a) The achievement and acceleration of sound self-sustaining economic development in the less developed countries through industrialization, diversification and the development of a highly productive agricultural sector;</p> <p>(b) Measures for assisting the developing countries, at their request, to establish well-conceived and integrated country plans - including, where appropriate, land reform;</p> <p>... the elimination of illiteracy, hunger and disease, which seriously affect the productivity of the people in the less developed countries.</p>	<p>International Development Strategy for the Second United Nations Development Decade GA res. 2626 (XXV) 24-10-1970</p> <p>Every country has the right and duty to develop its human and natural resources, but the full benefit of its efforts can be realized only with concomitant and effective international action.</p> <p>Governments designate the 1970s as the Second United Nations Development Decade and pledge themselves, individually and collectively, to pursue policies designed to create a more just and rational world economic and social order in which equality of opportunities should be as much a prerogative of nations as of individuals within a nation.</p>	<p>International Development Strategy for the Third United Nations Development Decade GA res. 35/56, 20-12-1980</p> <p>Governments designate the decade starting on 1 January 1981 as the third UN Development decade and pledge themselves, individually and collectively, to fulfil their commitment to establish a new international economic order based on justice and equity.</p> <p>The ultimate aim of development is the constant improvement of the well-being of the entire population on the basis of its full participation in the process of development and a fair distribution of the benefits therefrom.</p> <p>... equitable, full and effective participation by developing countries in the formulation and application of all decisions in the field of development and international economic co-operation...</p> <p>... additional external resource transfers in the context of over-all greater flows of financial resources to developing countries</p>	<p>International Development Strategy for the Fourth United Nations Development Decade GA res. 45/199, 21-12-1990</p> <p>The principal aim of the strategy is to ensure that the 1990s are a decade of accelerated development in the developing countries and strengthened international co-operation.</p> <p>... six interrelated goals must be met. They are:</p> <p>(a) A surge in the pace of economic growth in the developing countries;</p> <p>(b) A development process that is responsive to social needs, seeks significant reduction in extreme poverty, promotes the development and utilization of human resources and skills and is environmentally sound and sustainable;</p> <p>(c) An improvement of the international systems of money, finance and trade so as to support the development process;</p>
	<p>Each developing country should formulate its employment objectives so as to absorb an increasing proportion of its working population in modern-type activities ...</p>	<p>It is for each country to establish adequate national objectives for the promotion of human and social development within the framework of its development plans.</p>	<p>The Strategy should help provide an environment that supports the evolution everywhere of political systems based on consent and respect for human rights, as well as social and economic rights, and of systems of justice that protects all citizens.</p>

Note: These resolutions are reproduced in Rauschnig, D. et al. (eds.) - *Key Resolutions of the United Nations General Assembly 1946-1996*, Cambridge University Press, 1997, pp. 240-272.

A multitude of various resolutions, declarations, plans of action, programmes, funds, inter-agency task forces, system-wide co-operation fora, or focal points have emerged to address the myriad of development-related issues. It is not surprising that this became a fiercely criticised part of the UN work as the Organization turned fifty. One part of the problem was that 'development' was being constantly defined and re-defined, another that the majority of UN members might have had the wish to define development and facilitate it through international co-operation, but it did not have powers to do so.

The different visions of the role of the people that were subsumed under the term 'development' by the United Nations, illustrated in Table 1, portray the path travelled thus far. People were in the 1960s defined solely in terms of their productivity and had to wait for a verbal recognition of their rights till the 1990s. The substantially changed role of the state is illustrated in the initial commitment to development planning which later changed to the affirmation of the role of the free market and the private sector. The changing definition of development made a linkage between human rights and development a challenging conceptual task. During the 1950s, no assertion of the need for such a linkage was articulated within the United Nations. As Chart 2, *Development and human rights on the UN agenda* shows, explicit links were made in the 1970s to focus on the right to development in the 1980s. The affirmation of that right by a majority vote in 1986 and its confirmation through consensus in the 1990s masked the underlying disagreement: the right to development intended to bestow rights upon states, peoples and individuals without obtaining an agreement on the corollary bearers of the corresponding obligations. Because law is symmetrical, rights cannot exist without corresponding duties nor can freedoms be viable without accompanying responsibilities. An attempt to assert that individuals, peoples and states have a right to development without specifying the subjects burdened with the corresponding



duties and responsibilities led to a conceptual confusion, which was exacerbated by the lack of a common definition of what is meant by 'development' to which these diverse actors had a right to.

The impossibility to reach a political agreement on the right to development, or even human rights in development, was overcome in the 1990s through a rhetorical inclusion of the right to development in the final documents of the series of global conferences sponsored by the United Nations, from the Vienna Conference on Human Rights in 1993 to the Beijing Conference on Women in 1996. The UN human rights bodies continued, however, setting up different expert bodies striving to overcome political disagreements about moving beyond rhetoric, without success. The inter-governmental bodies dealing with economic governance have reflected the continuing rejection of the right to development by never using this term.

Chart 2 shows the term development emerged on the UN agenda in the 1960s, when former colonies started gaining their political independence and realizing that it did not mean much without economic independence. Calls for radical changes of the international economic system culminated in the 1970s, with democratically adopted declarations and resolutions by the UN General Assembly on the establishment of a new international economic order. Such an order was never established, because the minority that wielded power was not willing to succumb to the will of the majority, and international economics has remained beyond the reach of democratic decision-making. The adoption of the Declaration on the Right to Development in 1986 did not lead to its translation into operative guidance for international co-operation. Rather, it was followed by no less than three inter-governmental Working Groups, each of which finished its work by recording disagreement about the meaning of such a right.

Chart 2: Development and human rights on the UN agenda

1961	The first United Nations Development Decade
1968	International Conference on Human Rights: Economic development and human rights
1969	Declaration on Social Progress and Development
1970	Lusaka Conference of the Non-Aligned Movement (NAM) : Declaration on Non-Alignment and Economic Progress
1973	Algiers Conference of the NAM calls for establishment of a new international economic order
1974	Sixth Special Session of the United Nations General Assembly adopts Declaration on the Establishment of a New International Economic Order
1977	The right to development first mentioned by the United Nations Commission on Human Rights
1981	A Working Group of 15 governmental representatives established to study scope and contents of the right to development
1986	Declaration on the Right to Development adopted by majority vote
1987	A Working Group to study scope and contents of the right to development
1990	Global Consultation on the Right to Development
1991	Commission on Human Rights solicits proposals on the effective implementation of the Declaration on the Right to Development
1993	World Conference on Human Rights unanimously affirms the right to development
1993	A Working Group to study effective implementation of the Declaration on the Right to Development
1996	A Working Group to study implementation of the right to development
1998	Independent Expert to study the right to development

The blueprint written into the UN Charter consisted of three key-words: social progress, better standards of living, and larger freedom. The dominant development ideology of the 1990s is often seen as producing social retrogression, worsening living standards, and diminishing freedom for the have-nots. *An Agenda for Development* alluded to the UN's task to 'reconcile market-oriented approaches to development with social protection, welfare and equity considerations.'<sup>6</sup> The related question is obviously how to do it, and an analogy with international peace and security provides guidance on the UN's limitations. The main focus of the UN was to prevent the carnage of the Second World War from happening again. Countries deemed guilty had initially been kept out of the UN, while those most likely to start

another war were given the power to police each other and everybody else. The powers of the permanent members of the Security Council to define threats to international peace and security and impose measures for its preservation continue attracting criticism as the un-democratic oddity of the United Nations. Paradoxically, a replication of such an un-democratic oddity is proposed for economic development. An economic security council, discussed for years, was proposed in the *1995 Report on Global Governance*.<sup>7</sup> The rationale was to create a body with powers to make decisions and to carry them out, replacing (or perhaps, complementing) the G-7 (the Group of 7) and the Bretton Woods sisters (the World Bank and International Monetary Fund) that come the closest to co-ordinating macro-economic policies in the world.

Because the 1990s are the Fourth UN Development Decade, it is worthwhile to recall that this one as well as each previous one was based on a negative assessment of the previous one and invites an analogy with medicine: if trying to cure cancer with aspirins, results of increasing the dosage of aspirins will not convert placebo to cure. The UN's failure to change therapy cannot be attributed solely to the Organization's often criticised replacement of deeds by words, but relates to the UN's lack of powers to convert words into deeds: economic governance has not been a component of the UN's mandate since the pre-UN time when the post-war international order was being designed. Economic as well as military security was exempt from democratic rules of consensus-building or majority-voting.

*An Agenda for Development* was an attempt by Boutros Boutros-Ghali, the then Secretary-General, to lay down the blueprint for a focussed UN approach to development as he had done in the *Agenda for Peace*. The UN General Assembly noted it with interest. Translated from the UN jargon into plain English, this meant that the Assembly was not going to act upon it. Relating to peace, the role of the UN

was fairly clear because the UN is the only global body which has legally recognized powers to act, that is, the Security Council can and does legitimize coercion if it assesses that international security is jeopardized. With development, no such power exists within the United Nations.

Although the term 'global governance' has become an object of study and definitions of what that should be proliferate, as an observable phenomenon 'global governance' denotes substantively and procedurally different institutions. Table 3, *Different blueprints of global governance in development* compares the United Nations and Bretton Woods institutions with regard to the three issues discussed here (namely, development, aid and human rights) to highlight profound differences.

Table 3: Different blueprints for global governance in development

United Nations	Bretton Woods institutions
Membership open to all countries (subject to veto by the Security Council)	Membership subject to economic criteria and financial subscription
One-member-one-vote principle (with the exception of the Security Council)	Weighed voting according to members' shares
Equality of members regardless of their size and/or wealth	Special measures regarding countries whose economic performance is assessed negatively
General policies adopted collectively to apply to the entire membership	Country-specific policies
Economic sanctions against a country can be imposed by the Security Council as response to a threat against international peace and security	Rating of countries by the IMF/World Bank has significant impact on access to development finance
Development assistance, although small, available to all developing countries	Development assistance available only to countries that meet specific conditions

The General Assembly defined the main role of the UN in the 1990s as facilitating dialogue<sup>8</sup> and demanded 'an action-oriented consensual framework to promote international co-operation for development.'<sup>9</sup> The Assembly had to acknowledge, however, that official development assistance has been decreasing by an annual 10 percent, which makes promoting development co-operation appear utopian or hypocritical because of the lack of influence of majority-decisions (adopted within the United Nations) over shareholders' decisions (adopted within the Bretton Woods institutions).

In the earlier decades, human rights used to pertain only to the United Nations and were held to be outside the mandate of Bretton Woods institutions. In the 1990s, the Bretton Woods institutions became involved in denying access to development finance because of human rights violations, amongst many other grounds. Nothing resembling a human rights policy is likely to emerge and clarify how human rights should be merged with development and aid, however: the majority-decisions by the United Nations oppose human rights conditionality in aid and economic sanctions in response to human rights violations, the shareholders' decisions impose conditionality or sanctions.

## **Human rights**

The commitment to human rights by the collective decision of governments within the United Nations can be traced back to 1948, to the Universal Declaration of Human Rights. The legal basis for such a commitment was provided in the UN Charter and human rights were moved from the exclusively internal matter for each individual state into the international arena. It took three decades for the United Nations to set up a mechanism for political accountability of individual governments to their peers and one more decade to establish mechanisms for legal responsibility, as is illustrated in Table 4.

When the Universal Declaration of Human Rights was adopted in December 1948 by the majority of the then less-than-fifty members of the United Nations the Cold War had already started, and was reflected in the Declaration's wording, spirit and voting pattern. Winston Churchill had launched the term 'iron curtain' which divided Europe into two halves in March 1946, the blueprint for the Marshall Plan was launched in June 1947, and the blockade of Berlin was imposed in June 1948. While diplomats were negotiating and adopting the Universal Declaration of Human Rights, many of the governments they represented were involved in supporting the blockade of Berlin or in the airlift mounted to save the tiny, but symbolic, Western outpost in what had already become the East.

The Cold-War rhetoric labelled Eastern Europe and the Soviet Union as 'East', defying geography (Turkey was a part of the West and Hungary of the East) and symbolizing the expulsion of one-half of Europe and the Soviet Union from Europe, presumably into Asia. The strategy of containment instituted aid conditionality, which has persisted ever since in various incarnations. What was left for the West and East to divide between themselves was significantly termed the Third World, and the strategy of containment was applied through economic and military warfare. Proxy wars were fought throughout that Third World (in Korea, Guatemala, Congo, Angola, Ethiopia, Afghanistan, and elsewhere) and - even with the benefit of hindsight - it is difficult to imagine that an understanding of human rights (or the Cold War for that matter) could have developed in those many Cold-War battlefields.

Although an a-historical view of the Universal Declaration of Human Rights can easily read into its text much more than was, and could have been, promised, that Declaration constituted a mere promise. It is a matter of historical record that the Cold War slowed down a translation of the Declaration into governmental human



rights obligations. The two Covenants were adopted in 1966 and came into force in 1976; there was one for the West (on civil and political rights) and the other for the East (on economic, social and cultural rights). Reflecting the power structure of the time, the former provided for enforcement and the latter did not. A concession to the Third World was the recognition of the right to self-determination, which constituted the single-article first part of both Covenants.

During the first decades of the Cold War, ideological West-East duels conceptually fractured individual rights and divided their governmental and non-governmental advocates into two camps: civil/political *versus* economic/social rights. The process of decolonization added in the 1960s South-North duels and introduced collective rights, at first embodied in the right to self-determination and later in the (or 'a') right to development. In the previous decades (the 1940s and 1950s) only individual rights had been recognized, and self-determination was introduced in international human rights law in the 1960s as the outcome of the first wave of political independence. The changed composition of the United Nations led to fierce duels about a new international order (primarily economic) in the 1970s. In early 1980s, the first challenges to the previous assumption of international human rights law that domestic law would be secular emerged with Iran's switch to religious law, and gave rise to the West *versus* Islam duel. The striving for international competitiveness of the 1990s has been reflected in a search for economic sanctions to enforce environmental and labour protection. Each of those duels was reflected in aid policy and aid flows.<sup>10</sup>

The initial steps in drafting and negotiating human rights treaties and other instruments (depicted in the left side of Table 4, *Chronology of human rights standard-setting and responding to violations*) were taken by the Commission on Human Rights, with the dominant role of the region which is referred to here as the

West/North, and forms the 'Western and Other States' group within the UN.<sup>11</sup> The membership of the United Nations during the first two decades excluded its today's majority; in 1946 the whole membership of the United Nations was 51,<sup>12</sup> less than today's 53 members of the Commission on Human Rights. Howard Tolley provides an illuminating piece of officially unrecorded history by pointing out that non-Western members of the Commission were represented by American-educated diplomats, and thus the 'influential diplomat P.C. Chang of China [Taiwan] held a Columbia University Ph.D., but challenged the Western orientation of the Harvard-educated Malik [Lebanon].'<sup>13</sup>

It is also a matter of historical record that UN's powers to act upon human rights promises emerged because of the growing Third World constituency within the UN. The 1960s marked the first expansion of the UN membership following the beginning of decolonization in Africa, and introduced collective rights (notably the right to self-determination) to the human rights agenda. It should be added that the application of human rights to people in colonies (non-self-governing territories, in the official UN jargon) was rejected during the adoption of the Universal Declaration of Human Rights: an amendment whereby human rights would explicitly apply to them had been proposed by the Soviet Union and rejected upon the proposal by United Kingdom by a close vote of 29-17-10.<sup>14</sup> The eagerness of newly independent countries to extend human rights to those who had yet to attain independence was a reflection of the uncertainty of early international law as to whether 'human' encompassed those humans who had a colonial power as government.

Seventeen African countries joined the United Nations in 1960. Problems related to decolonization had previously been dealt with by the General Assembly and Security Council as political rather than human rights issues, and were explicitly placed on the human rights agenda in the 1960s.



Table 4: Human rights within the United Nations: A chronology

Law-making (treaties)Political (non-legal) instruments	Human rights standard-setting	Responding to violations
<p>1946 UN Charter</p> <p>1948 Genocide1948 Universal Declaration</p> <p>1949 Geneva Conventions</p> <p>1951 Refugee Convention</p> <p>1951 Political rights of women</p> <p>1955 Minimum rules for prisoners</p> <p>1957 Citizenship of married women</p> <p>1959 Rights of the child</p> <p>1960 Independence for colonies</p> <p>1962 Discrimination in education</p> <p>1962 Minimum age for marriage</p> <p>1963 Racial discrimination</p> <p>1965 Racial discrimination convention</p> <p>1966 Economic and social rights covenant</p> <p>1966 Civil and political rights covenant</p> <p>1967 Discrimination against women</p> <p>1968 First Conference (Tehran)</p> <p>1973 Apartheid Convention</p> <p>1973 Declaration against torture</p> <p>1977 Geneva Protocols</p> <p>1979 Discrimination against women convention</p> <p>1981 Religious discrimination</p> <p>1984 Convention against torture</p> <p>1986 Right to development</p> <p>1989 Rights of the child convention</p> <p>[1991 Rights of migrants workers]</p> <p>1993 Second Conference (Vienna)</p> <p>1994 ICPD Conference (Cairo)</p> <p>1994 Declaration on violence against women</p> <p>1995 Social Summit (Copenhagen)</p> <p>1995 4<sup>th</sup> Conference on Women (Beijing)</p>	<p>Treaty-based (legal) bodies</p> <p>1967: South Africa</p> <p>1969 Committee on Racial Discrimination</p> <p>1970: 1503 resolution</p> <p>1976 Human Rights Committee</p> <p>1980: Disappearances</p> <p>1982 Committee on Discrimination against Women</p> <p>1982: Summary executions</p> <p>1985: Torture</p> <p>1986: Religious intolerance</p> <p>1987 Committee against Torture</p> <p>1987 Committee on Economic and Social Rights</p> <p>1991: Arbitrary detention</p> <p>1992: Internally displaced</p> <p>1991 Committee on the Rights of the Child</p> <p>1992: Freedom of expression</p> <p>1993: Racism</p> <p>1994: Violence against women</p> <p>1998: Education</p>	<p>Political decisions/bodies</p>

In 1962 the General Assembly decided that a treaty against racial discrimination should be drafted, and the Sub-Commission drafted a declaration one year later and the future convention the following year. The International Convention against racial Discrimination included group alongside individual rights, and the two Covenants of 1966 proclaimed the right to self-determination in their first article, as the one-article first part of both. In 1961 the first Summit of the Non-Aligned Movement was held in Belgrade and decided on a common platform to be pursued within the United Nations; that initial platform was orientated towards economic - not only political - self-determination and expanded in the early 1970s to calls for a new international economic order. In the 1970s the General Assembly's agenda became overwhelmed by conflicts related to international economic order. That issue was reflected in human rights in the creation of the right to development in 1986, and perhaps it was not a coincidence that the Assembly's call for a rollback in human rights standard-setting happened at the same time.<sup>15</sup>

### **Aid, and later international development co-operation**

While the Universal Declaration of Human Rights was being drafted and negotiated, the Cold War was already a fact. The final votes whereby the Declaration was adopted did not affirm the 'universal' from its title (the Soviet Union and Eastern Europe abstained, together with South Africa and Saudi Arabia) nor was the 'human rights' from its text associated with the ideological and economic warfare of the time. Fear of a military confrontation in Europe proved unjustified, but war did erupt in Korea. The culprits - North Korea and China - were subjected to economic sanctions. The US foreign policy continued reliance on sanctions within its own region, and economic sanctions against Cuba fitted into the pre-existing pattern.

Following the idea launched by George Kennan in 1946, that communism should be contained, the USA equipped in 1947-1951 herself with an arsenal of economic

weaponry to fight the Cold War. The war-related export controls were revived and their scope increased through a link with US aid, which was conditioned by compliance with US export controls by all recipients. Extraterritoriality of U.S. legislation was secured by the simple fact that USA was the single donor at the time and most of today's industrialized countries were recipients of US aid. The legislative framework was completed by restricting trade through foreign policy objectives, amongst which containment of communism ranked high. The Export Control Act of 1949 defined the US policy to include 'the necessary vigilance over exports from the standpoint of their significance to the national security of the United States'.<sup>16</sup> In 1951, denial of trade preferences to communist countries became part of US law, while the Mutual Defence Assistance Control Act (known after its major draftsman, Laurie Battle as the Battle Act) institutionalized export controls against USSR and her allies, as well as denial of aid to any country which did not comply with the US export controls. The declared aims were to impede the military strength of the USSR and her allies, but also to 'assist the people of the nations under the domination of foreign aggressors to reestablish their freedom,'<sup>17</sup> which indicated the future US human rights rationale. Human rights conditionality was based on donors' assumed right to set conditions and to punish disobedient recipients. The classification of donors as *developed*, while recipients had yet to develop, implied that donors' model represented the ultimate goal of *development* and could be used as the yardstick to evaluate countries that had yet to develop. Aid was intended to facilitate thus defined development.

The fiftieth anniversary of the Marshall Plan, celebrated in May 1997, revived interest for that much praised precedent for successful aid. George Kennan, the intellectual father of the containment-of-communism strategy, had predicted that what he called European Recovery Program and what was nicknamed after the US Secretary of State at the time, George Marshall, would be 'the last major effort of

this nature which our people could, or should, make.'<sup>18</sup> Indeed, subsequent to the end of the Cold War, aid decreased a great deal.

Between 1949 and 1994 Cocom co-ordinated trade restrictions against communist countries. Its membership was largely a replica of the NATO and its security rationale evidenced in secretiveness. During the first decade, the list of prohibited goods encompassed almost half of all goods that were traded at the time, but the subsequent shortening of the list of embargoed goods coincided with Western Europe's changed status. During the Marshall Plan period, the USA could enforce compliance with restrictions on West-East trade because Western countries were recipients of US aid; the volume of aid was the highest ever received. In 1948-1952, Iceland received an annual \$72 per capita, Norway \$50, the Netherlands \$45, Greece \$44, France \$35, Denmark \$29, United Kingdom \$19, and West Germany \$15.<sup>19</sup> The Economic Co-operation Act of 1948 set up the aid programme for Western Europe, while the Foreign Assistance Act (also of 1948) included a clause allowing the USA to withhold aid if the recipient was suspected of planning exports to Eastern Europe. The separation of the same issue between two pieces of legislation allowed conditions for aid to remain outside US bilateral treaties with each recipient and thus outside decision-making concerning the acceptance of these treaties by each recipient. Aid conditionality was laid down in the manner that has not changed a great deal thereafter:

The bilateral agreements [with Western European aid recipients] were a systematic attempt by the United States to determine how far it should and could exact political and economic concessions in return for foreign aid and as such were an early determinant of a vital aspect of American foreign economic policy for the next [forty] years.<sup>20</sup>

The two parallel but unrelated tracks (the aid schemes which set up by the colonial powers for their dependencies and the Marshall Plan) were merged after the Marshall Plan had proved successful and instigated optimism as to what aid could accomplish. A replica of the Marshall Plan was thus tried out on the rest of the world in terms of the expectations as to what aid could accomplish if not also the volume of aid.<sup>21</sup>

Aid had been conceived as a transitory arrangement. It was expected to produce an instant 'take-off'. In the 1960s it became obvious that aid did not work as fast as it had been hoped. Development was then re-defined as long-term process and aid had to be institutionalized. It is today the main activity of a vast number of inter-governmental and non-governmental organizations, including activity of all the donor and recipient governments. The multiplicity of donors, policies, aims and methods created a bewildering structure which keeps changing and expanding.

Following the initiative of the World Council of Churches, the 1 percent target for development aid had been launched in 1958 and adopted by the UN General Assembly in 1961. In 1970 the target was decreased to 0,7 percent of the GNP, and that criterion has been internationally accepted as the norm for donors which have achieved it, as the goal for those who plan to attain it, and rejected by the USA. Regardless of the formal acceptance or rejection of that goal, aid has been diminishing in the 1990s and this trend does not promise to be halted. Moreover, aid policies of the 1990s reverted to the early aid conditionality. Forty years after the first explicit assertion of aid conditionality quoted above, the spread of *democracy-cum-human-rights* conditions from aid to trade and investment throughout West's relations with aid receiving countries has been challenged by various fora, ranging from the Non-Aligned Movement to ASEAN. A common platform was forged against the background of the growing economic importance of Asia, achieved - and

sustained - without Western aid. While commercial engagement became the driving force of Western relations with Asia, the strategy of containment<sup>22</sup> was broadened from the previous focus on the containment of communism to the current preoccupation with international competitiveness. Environmental and labour protection, alongside human rights, became objects of inter-regional disputes. From an Asian perspective, those are seen as protectionism intended to curtail Asia's competitiveness. The strategy of containment in earlier decades (which applied market leverage to achieve non-market objectives) changed to pursuing non-market objectives so as to contain Asia's market leverage before the 1998 crisis.

During the past five decades, the rationale for economic sanctions rounded full circle. They had been initiated as a Cold-War weapon to submerge aid, trade and investment under the foreign policy objective of the time. Fifty years later, aid became minute, while promotion of trade and investment became the key foreign policy objectives, submerging political and ideological objectives and fuelling domestic pro- and anti-sanctions lobbies. The initial purpose of economic sanctions was to deprive potential consumers of access to Western goods (especially those that could enhance their anti-Western military capacity); fifty years later the purpose of sanctions is more often to open all potential markets for Western exports (with restrictions continuing to inhibit the buildup of anti-Western military capacity).

Table 5, *Private and public financial flows in 1994: Selected countries*, divides aid receiving countries into two categories: those attracting private inflows of capital, and those dependent on aid. The former are largely immune from human rights conditionality, the latter are vulnerable to any and every conditionality and are routinely subjected to donors' punitiveness.

Table 5: Private and public financial flows: Selected countries

Country	Private capital flows	Aid as % of GNP
China	46,555	0.6%
Mexico	17,394	0.1%
Brazil	11,871	0.1%
Argentina	8,214	0.1%
South Korea	8,132	0.0%
Indonesia	7,408	1.0%
Malaysia	6,661	0.1%
India	5,497	0.8%
Chile	4,300	0.3%
Thailand	4,138	0.4%
Philippines	4,107	1.6%
Peru	3,214	0.9%
Hungary	2,717	0.5%
Czech Republic	2,642	0.4%
Nigeria	1,885	0.6%
Pakistan	1,657	2.5%
Poland	1,244	2.0%
Egypt	1,006	6.4%
Rwanda	1	123.4%
Mozambique	32	100.1%
Guinea-Bissau	1	74.2%
Nicaragua	36	41.6%
Haiti	2	37.8%
Malawi	-1	37.0%
Burundi	-1	32.2%
Congo	-130	31.2%
Tanzania	12	30.3%
Côte d'Ivoire	30	26.2%
Mauritania	2	25.9%
Niger	-22	25.5%
Chad	7	24.1%
Ethiopia	-12	22.9%
Mongolia	-12	22.5%
Zambia	-4	22.3%
Burkina Faso	1	22.3%
Mali	44	22.0%
Sierra Leone	38	21.4%
Gambia	6	20.9%

Source: The World Bank - *World Development Report 1996*.



## **Parallel tracks: The United Nations and donors**

Two parallel tracks emerged in the 1970s: the United Nations acquired powers of investigating and condemning human rights violations, while the USA developed a human rights policy with the explicit intention to halt aid to human rights violators. The background of the change within the United Nations was a generalization of the initial moves against the denial of the right to self-determination and institutionalized racism, which merged in the UN's singling out of South Africa as the principal culprit. The newly acquired political voice of the recently independent countries attained the change from the UN's commitment to the promotion of rights to the UN's powers to investigate and condemn gross and institutionalized violations, especially of collective human rights. The background to the prominence of human rights in the US foreign policy was the merger between the anti-Vietnam protest movement, which sought to halt the US abuses in other countries, and the domestic protest against abuses of power by the executive, exemplified by the Watergate scandal. Because the executive was seen as the principal culprit, the congressional initiative to constrain its powers developed into a series of laws which linked US aid to the absence of human rights violations in the recipient countries.

It is no coincidence that both changes took place in the 1970s, when non-governmental human rights organizations started becoming a visible actor in Western Europe and North America. The anti-apartheid movement mobilized the general public against the complicity in abuses in the far-away South Africa through the Western foreign and commercial policies, while the newly created human rights organizations - notably Amnesty International - reinforced the importance of the universality of human rights, urging people everywhere to respond to violations everywhere. Such ideas found a great deal of resonance in the subsequent Western



foreign policies because of influence of the Western governments on domestic developments in the developing countries, particularly in the major aid recipients.

### **The United Nations: Investigation and condemnation of violators**

The identification of specific governments as *violators* was opened in 1967 outside the UN bodies with 'human rights' in their title, and with the aim of facilitating decolonization. The General Assembly and its Special Committee on the Implementation of the 1960 Declaration on the Granting of Independence to Colonial Countries and Territories instituted complaints for violations, and ECOSOC established public procedure for investigating human rights violations in 1967. The first period, 1967-1973, was marked by a focus on Rhodesia (today's Zimbabwe), South West Africa (today's Namibia), as well as on today's Angola and Mozambique, with their respective colonial powers the target. With South Africa and Israel, investigative and condemnatory powers of the United Nations moved towards self-determination in a broader sense. Israel was added in 1968 following the Six Day War, and South Africa and Israel became the longest and largest items on the violations-agenda. The Western group often voted against or abstained for both.<sup>23</sup>

Battles were - and are - fought about abstract principles, especially about reconciling prohibition of interference in internal affairs and UN's powers to interfere in internal affairs to expose and oppose gross abuses of power. Such battles did not constitute prevent identifying individual governments as violators; it started in 1967 and has continued ever since. The real question became which violators could mobilize a sufficient majority within the Sub-Commission and Commission to remain immune from public exposure, from being publicly labelled as a violator.

Condemnation of governments that are violating human rights started in 1967 with South Africa, followed by Israel one year later, and Chile in 1974. The UN's definition of violators moved with Chile beyond colonial and foreign occupation to military takeovers in independent countries and rule by force. East European countries lost their immunity from condemnation in the 1980s. Thematic procedures also evolved in the 1980s, reducing the politicization of targeting individual countries. The effect has been that at least one-third of governmental representatives who routinely take part in discussing how to deal with human rights violations have the unpleasant task of responding to allegations of violations for which their own governments are accused. In the 1970s, the first steps were made towards exposing and opposing institutionalized violations of individual rights and those legitimized the UN's powers to carry out investigations, publicise their results, and publicly condemn individual governments. Public exposure became the sanction, reinforced by peer pressure inherent in decision-making by fellow-governments.

Because the United Nations can only act in response to information received, the initiative of governments or NGOs is the necessary first step. NGOs (non-governmental organizations) rather than governments take a lead in exposing violations. From a handful exposures that had started in the West/North in the 1960s, their number grew to tens of thousands in the 1990s. Most information about alleged violations thus originates from intermediaries rather than victims; most of these intermediaries are based in the West.

Interest for particular countries and specific human rights violations is created through the supply of information, which then creates calls for condemnation as well as demand for more information through further investigation. Human-rights violations are found wherever they are sought. Where one goes to look and what phenomena one is looking for is determined by the implicit definition of human

rights and their violations. These change in time and place and vary from one NGO to another, although most have profiled themselves in the mold of Amnesty International, which was the first and the biggest and became a synonym for non-governmental human rights work. What does not change was highlighted by David Weissbrodt and James McCarthy:

There is nothing which convinces the outside world so much as the statement "We were there and we saw."<sup>24</sup>

The geopolitics of the search for human-rights violations is illustrated in Table 6, *Destinations of NGO fact-finding missions, 1970-86*. It summarizes the most frequent destinations of fact-finding missions by human rights organizations in 1970-1986. The number of both NGOs and their missions were small enough at the time to make such stocktaking possible. That period, 1970-86, also coincides with the first fifteen years of UN procedures for identifying human-rights violators. It is thus worthwhile to examine similarities between the NGO-generated supply of information on abuses in specific countries and the outcomes of UN procedures. The focus on Central and South America, with almost half of all NGO missions, reflected and reinforced the international human rights politics of the time. It was the time of increasing domestic pressures towards constraining US-supported abuses abroad and NGO missions targeted those countries which were singled out by domestic US constituencies.

Human rights organizations favoured the term fact-finding because it implied that the law was clear and only facts should be verified. Indeed, Hans Thoolen and Bert Verstappen found that half of such fact-finding missions did not make any reference to the laws that were supposedly breached; whatever abuses NGOs were describing could thus be termed 'violations'. The reliance on English as the working language

(with French used in about one-third of reports) rather than the languages of the visited countries, and the absence of non-Western NGOs as originators of such reports were the key defining feature.<sup>25</sup> Ian Martin, a former Secretary-General of Amnesty International, noted how tempting it must have been 'to use the economic power of the North to apply pressure on aid-dependent countries for civil and political rights protection.'<sup>26</sup> Amnesty International did not succumb to that temptation while Human Rights Watch took the opposite path, advocating the imposition of sanctions as well as human rights conditionality in aid, and has created 'the right to monitor.'<sup>27</sup>

Table 7, *Chronological list of human rights violators, 1967-1998* lists those governments that were condemned for human rights violations by their peers. The way towards the identification of specific governments as violators was opened in 1967 with the aim of facilitating decolonization. The General Assembly and its Special Committee on the Implementation of the 1960 Declaration on the Granting of Independence to Colonial Countries and Territories instituted complaints for violations, and ECOSOC established public procedure for investigating human rights violations in 1967. The first period, 1967-73, was thus marked by a focus on Zimbabwe (as it is today), Namibia, Angola and Mozambique and their respective colonial powers were the target. With South Africa and Israel, investigative and condemnatory powers of the United Nations continued their focus on self-determination. As the Table shows, the early list of violators was short and focused on southern Africa. Israel was added in 1968 following the Six Day War, and South Africa and Israel became the longest-lasting and largest items on the violations-agenda. The Western group often voted against or abstained.<sup>28</sup>

Table 6: Destinations of NGO fact-finding missions, 1970-86

Region and country	Number of missions
CENTRAL AMERICA 29 to El Salvador 25 to Nicaragua 19 to Guatemala	111
ASIA 11 to Philippines 8 to Pakistan 8 to Sri Lanka	65
SOUTH AMERICA 19 to Chile 9 to Argentina 8 to Uruguay	58
NORTH AFRICA 9 to Morocco 7 to Egypt 4 to Tunisia	51
MEMBERS OF COUNCIL OF EUROPE 11 to Turkey 5 to United Kingdom 3 to Spain	29
MIDDLE EAST 11 to Iran 8 to Palestine	28
NORTH AMERICA 4 to Canada 1 to USA	5
OCEANIA 1 to Australia 1 to Papua New Guinea	4

Note: Regions are ranked by the total number of factfinding missions. Only the most frequent target countries are singled out within each region and figures therefore do not add up.

Source: Thoolen, H. and Verstappen, B. - *Human Rights Missions. A Study of the Factfinding Practice of Non-governmental Organizations*, Martinus Nijhoff Publishers and Netherlands Institute of Human Rights (SIM), 1986.

Burundi, Indonesia and Iran had been placed on the agenda, but neither the names of countries nor the substance of alleged violations was made public, as was customary at the time. The names of countries were revealed after 1978, the

substance remains confidential. Because all three countries later became prominent in international human rights politics, it is illustrative to note that UN human rights bodies did have something of an early warning. In 1974-79 only four African countries (Uganda, Equatorial Guinea, Ethiopia, and Malawi) besides South Africa were considered under the confidential procedure. Public procedures were paralysed by the unwillingness of African delegations to publicly expose their peers as human-rights violators. Two Asian countries (Cambodia and Burma) were also under the confidential procedure. Nothing much was known at the time about UN's deliberations. Cyprus has been on the UN's agenda ever since 1975, was elevated to constitute a single-country agenda item, but nothing much has been accomplished.

The violators-agenda was broadened a great deal during the first post-Cold-War years. The change from the Cold-War division of governments into two blocks to the disappearance of one of them opened the way for Cold-War victors to enlarge the list of human rights violators. The backlash was rapid. A non-Western blocking majority for such Western initiatives was formed in the early 1990s and democratic rules of decision-making gradually reduced the list of violators. Moreover, the build-up of pressure for the Commission on Human Rights to shift from voting to consensus aimed at narrowing the possibilities for the identification and condemnation of violators. Debates about 'rationalizing' the work of the Commission (in the UN language) became embroiled in a mixture of budgetary and political battles. The need to streamline the work of the Commission was dictated by the necessity to reduce the excessive costs. As the Commission, its meeting time, and its agenda were enlarged, the costs skyrocketed. Participation in its annual sessions exceeded 2,000 (almost equally divided between governmental and NGO participants). For the 1997 session, more than 500 documents consisted of more than 13,000 pages.<sup>29</sup> Proposals to rationalize the work of the Commission inevitably

reflected a political agenda, while those aiming to curtail work relating to violations and violators attracted most attention. One line (represented by Bangladesh, China, Cuba, Egypt, Indonesia, Iran, Malaysia, Nigeria, Pakistan, Philippines and Sri Lanka) targeted special procedures intending to reduce the powers of special rapporteurs or working groups.<sup>30</sup> Another line had little to do with budgetary concerns and much more with the Commission's decision-making; it intended to institutionalize consensus as *modus operandi*. The above mentioned group was reinforced in this initiative by Algeria, Angola, Dominica, India, Iraq, Jordan, Pakistan, Thailand and Viet Nam, and managed to broaden the use of consensus. By 1997, more than two-thirds of resolutions (63 out of 78) were adopted by consensus.

Inter-governmental politics could never be purged from condemnations for human rights violations (not even in theory) and therefrom patchy UN's record. The democratic rules of decision-making place the Western Group, the initiator of the bulk of proposals for condemnation, in the position of a minority, with the task to seek and obtain acquiescence by other regions. Dissatisfaction with these rules brought about a unilateral Western policy that combined condemnation with sanctions without the need for consultation with other regions. This phenomenon, called here globalized unilateralism, was hailed as an efficient way of tackling human rights violations although it does not conform to the requirements of human rights.



Table 7: Chronological list of human-rights violators, 1967-1998

1967-1973	1974-1979	1980-1989	1990-1998
South Africa (1967) Israel (1968)	Chile (1975) Cyprus/Turkey (1975) Kampuchea/Cambodia (1979) Equatorial Guinea (1979) Nicaragua (1979)	Afghanistan (1980) Guatemala (1980) Malawi (1980) Bolivia (1981) El Salvador (1981) Western Sahara (1981) Iran (1982) Mauritania (1982) Poland (1982) Indonesia/East Timor (1983) Grenada/USA (1984) Haiti (1984) Sri Lanka (1984) Lebanon/Israel (1985) Paraguay (1985) Pakistan (1985) Uruguay (1985) Albania (1988) Romania (1989)	Cuba (1990) Panama/USA (1990) Iraq (1991) Burma/Myanmar (1992) Somalia (1992) Sudan (1992) Zaire/Congo (1992) [Yugoslavia] (1992) Papua New Guinea/Bougainville (1993) Togo (1993) Angola (1994) Burundi (1994) Georgia (1994) Rwanda (1994) Nigeria (1996)

Note: Only countries which were named as human-rights violators, that is, for which a substantive resolution was adopted by the Commission on Human Rights, stating that violations were taking place, are listed for the year when the first such resolution was adopted.



The Universal Declaration of Human Rights laid down the conceptual framework for the subsequent internationalization of human rights:

- the pillar of human rights is the rule of law, which necessitates questioning condemnations and sanctions through political decisions;
- everyone's human rights are limited by the equal rights of everyone else, which leads to posing a painful question: can a demand to impose economic sanctions against another country be deemed to constitute an abuse of rights since sanctions are likely to undermine the equal rights of people in the sanctioned country?
- no state, institution or individual can assume a right to destroy the rights and freedoms of others, thus necessitating an even more painful question: since sanctions can constitute purposeful impoverishment, they can jeopardize the life of the nation (to use human-right jargon) and lives of individuals.

These principles were intended to guide the relations between the state and its subjects (previous objects) rather than relations between states where one imposes sanctions against another in the name of human rights of the people in the sanctioned country. The unanticipated phenomenon of sanctions requires a quadrilateral analytical scheme to capture multiple relations: horizontal relations between the two governments as well as the individuals in both countries, vertical relations between each government and its own population as well as the cross-border vertical relationship between the sanctioning government and the population in the sanctioned country. No ready-made human rights norms exist for these cross-cutting relations because they were not anticipated. Since economic sanctions are imposed in the name of human rights, general human rights principles should - but

do not - apply, exposing, yet again, an abyss between the normative world and the unruly reality.

### **Donors' aid cutoffs**

Human rights emerged in foreign policy under the pressure of articulate domestic constituencies. Similarly to sanctions aimed at containment of communism in the 1940s, sanctions for human rights violations in the 1970s reflected popular sentiment rather than a thought-out foreign policy. Domestic pressures towards US dis-involvement from repression and warfare abroad combined incipient human rights groups with the much more developed anti-Vietnam-war movement. The first target was the US military and/or security assistance, including police training abroad. The Subcommittee on International Organizations of the Congressional Foreign Affairs Committee started in 1973 holding hearings on human rights in the major recipients of the US military aid (Argentina, Brazil, Chile, El Salvador, Guatemala, Nicaragua, Paraguay, and Uruguay). By no coincidence, all were found on the UN list of human rights violators. This congressional initiative led to the preparation of a report on human rights in the eighty-two recipients of US military assistance, which became the first issue of the annual review of human rights practices.<sup>31</sup> Curtailment of US police/military/security assistance by human rights safeguards was not an instant success - too little information was publicly available and David Forsythe claimed that not even the exact number of recipients was known.<sup>32</sup>

The 1970s as a period of converging challenges of US foreign policy. The Vietnam syndrome was intensifying, and the Watergate scandal lowered the prestige of the executive, thus foreign policy - as a prerogative of the executive - became a target of multiple political challenges. The Senate's Church Committee chronicled, *inter alia*, the US involvement in foreign assassinations. In 1973, the US military

assistance was tied to absence of political prisoners in the recipient countries and then broadened to absence of serious and systemic human rights violations. In 1974, the most favoured nation clause (MFN) was linked to the right to leave the country, meant initially for the Soviet Union and Romania. Because the USA was not providing any aid to the Soviet Union, conditions could apply only to trade. In 1976, human rights became a criterion for the US vote for loans in international development finance agencies. Sixteen countries were affected by US veto of loans; addition legislation impeded multilateral banks from using US funds for Angola, Cambodia, Cuba, Mozambique, and Uganda.<sup>33</sup> In 1977, human rights were added as a criterion for agricultural export credits.

The thrust of including human rights in the US aid was not to remould the recipients, but to constrain the future conduct of the USA abroad and implicitly acknowledge past wrongdoing. The linkage between US military assistance and political imprisonment in recipient countries applied to Cold-War enemies,<sup>34</sup> but also to South Korea and Chile in 1975, in 1977 to Uruguay and the Philippines, in 1978 to Argentina, Brazil, El Salvador, Ethiopia, Guatemala, Nicaragua, and Paraguay, and in 1980-81 to Zaire. Statutory requirements were not observed always nor for all recipients, however. The Philippines demonstrated the priority attached to the U.S. bases over the international outcry against the Marcos regime.<sup>35</sup> Following the ouster of Marcos by the people-power movement of 1986, aid negotiations continued around US military bases and US aid decreased following their closure.<sup>36</sup> One of the prominent gestures of the Carter Administration was to decrease (not suspend) military aid to Argentina in February 1977. This prompted publicity because it pitted the USA against a 'friendly' military regime rather than a communist adversary.<sup>37</sup> Indeed, the Argentinian military claimed that the dirty war was fought against the threat of communism.

Human rights were associated with the US lead in international human rights politics during the Carter Administration. Not only was the USA the first to link aid to absence of human rights violations, it was also the largest donor at the time. The US model became a battleground within domestic politics in other donor countries. (The USA continued applying other forms of economic sanctions, especially against those countries to which no US aid was provided.<sup>38</sup>) The USA was followed by donors that defined 'human rights' differently, sometimes in (implicit) opposition to the US model. The 'like-minded donors' (Canada, Denmark, Netherlands, Norway, and Sweden) had a commitment to the welfare-state model, but their definition of 'human rights' in foreign policy was much narrower. Policies aimed at elimination of poverty or reduction of inequalities were not included in the definition of 'human rights', nor has there been a single case where a donor cut off aid because a recipient pursued a policy of impoverishment or increasing income inequalities.

At the inter-governmental level, the decade of the 1970s was marked by the battle for a new international economic order. Human rights were a victim because the focus was on inter-state relations. The language of rights was applied to state, first within demands for the new international economic order and subsequently for the right to development, and thus became blurred. The verbal duels about the rights and wrongs of inter-state relations were soon overshadowed by the debt crisis in the 1980s and the corollary change of international economic relations. Overburdened by debt, governments started reducing their budget deficits and their economic role. The former contributed to the diminishing volume of aid while the latter switched the focus of economic sanctions from aid to trade.

### **Punitive linkage between aid and violations**

Economic sanctions were defined by the Dutch Advisory Committee on Human Rights as 'any restrictions on economic exchanges with a particular country which

are intended to serve as instruments of human rights policy.<sup>39</sup> The most frequent type of economic sanctions is cutting off government-to-government aid. Economic sanctions against non-recipients of aid have been extremely rare, less than a handful of cases thus far. Rhodesia and South Africa were the first and best known, Cuba as well as Soviet Union and her allies have been targeted by such sanctions for human rights violations amongst other grounds, as have been Iran and Iraq. The Cold-War sanctions against ideological enemies and the addition of human rights to other reasons for sanctions against Iran and Iraq reinforce the link between responding to human rights violations and cutting off aid. This is further reinforced by rare non-Western initiatives, such as sanctions against South Africa and Israel, or Russia's sanctions against Latvia in retaliation for the treatment of 'Russian speakers.'

African countries have been the most frequent target of economic sanctions for human rights violations. The USA used sanctions against South American countries in previous decades (Cuba remains an exception) and Europe subsequently replicated this model to Eastern Europe. The focus on cutting off aid as well as the image of economic sanctions as an exercise in power is inevitable.

Domestic support is easy to mobilize in favour of economic sanctions that consist of aid cutoffs because they are seen as costless or even cost-saving for the country imposing them. Aid is perceived as an act of generosity and the case for withholding it from tyrants is easy to make.

Granting or withholding aid are political decisions for which donor governments exercise discretion. Numerous efforts were made throughout the past decades to translate the aid relationship into a language of mutual rights and obligations; many recommendations were adopted by the majority of potential recipients with the

dissenting minority of donors. Different from private capital flows and trade, inter-governmental aid is inherently subjected to governmental interference. Different ministerial agendas, and competing values and modes of operation by the ministries of foreign affairs and development co-operation, do not necessarily add up to a shared vision of foreign policy. Countries which have two separate ministries tend to exhibit less punitiveness than those in which development co-operation is subsumed into the ministry of foreign affairs.

For some recipients aid was suspended for a short time, others experienced long and repetitive suspensions, yet others have been targets of intermittent sanctions. In some cases the reason was warfare, in others institutionalized human rights violations, in yet others failure to carry out multi-party elections. Economic sanctions were often imposed for other than the officially cited reasons (the target government's inability to service foreign debt or general economic mismanagement) and were thus not motivated by human rights violations nor aimed to remedy them. Because aid cutoffs are seen as a costless way of improving human rights situation in far-away countries, cost avoidance makes imposing sanctions easy. The easier they were to impose, the less likely they were to be effective. Sanctions often did not 'bite' (to use an expression popular with journalists) at all because they were not meant to, having been imposed in response to domestic pressures for a political gesture but constrained by domestic counter-pressures against an economic 'crippling' (another journalistic favourite) of the targeted country.

The correlation between diminished aid flows and increased donors' punitiveness exacerbated the notorious ineffectiveness of economic sanctions that consist solely of aid cutoffs.<sup>40</sup> The accumulation of different conditions for aid and grounds for cutoffs facilitates an easy summing up: when it was not human rights, it was something else. The nobility of the human rights cause is obviously tainted with a



suspicion that human rights violations have been merely one of many reasons used to justify diminished aid flows. Moreover, since sanctions have been so much ingrained in development aid, two conflicting rationales emerged: aid was defined as a necessary complement to domestic efforts of the recipient to improve its human rights performance.<sup>41</sup> Resort to sanctions turns this rationale around to the argument that recipient's human rights performance will improve if aid is denied. Such a counter-intuitive argument opens the way towards exploring whether the rationale behind economic sanctions for human rights violations indeed goes against the grain. As sanctions are a foreign-policy tool, the question to be answered is: are economic sanctions an appropriate means towards the end of halting human rights violations?

Support for and opposition to economic sanctions for human rights violations led to a variety of normative theoretical approaches, which are necessarily based on a view of the world as it should (or at least could) be. The field of human rights is dominated by normative theories. Their focus on the world as it should be says too little about the world as is, and even less about how to move from 'is' to 'should.' One prevalent assumption is that states have ratified human rights treaties which means that they are committed to human rights; external or international pressure can advance human rights because the commitment is already there. A related assumption is that all states are capable of guaranteeing all human rights. Theoretical justifications for economic sanctions then build their case on seeing sanctions as a method of enforcement, forcing human rights violators to stop violating human rights and start protecting them. The basic assumption is, however, untenable because international law, including human rights law, tells us how states should behave rather than how they do behave. (Of course, it says nothing about the capacity of any state to behave in any desirable or undesirable way since this is an extra-legal issue.) The states' real-life behaviour challenges normative postulates



because the pattern of economic sanctions is arbitrary and links between sanctions and human rights tenuous. Asking the inevitable 'why' and 'why not' leads to linking the state's behaviour towards another state to its domestic politics, and further into the sociology of foreign-policy making and putting into practice.

Economic sanctions pertain to the discipline of international relations while (human rights) violations are mostly studied as part of international law. The former leans towards an institutional approach and the latter overwhelmingly follows a normative approach. The relationship between sanctions and violations requires building a two way trans-disciplinary bridge: economic sanctions can follow violations, violations are not necessarily followed by sanctions, while the economic sanctions themselves can violate human rights. These three facets of the relationship can be clarified as follows:

- quite a few Western countries committed themselves in their laws or foreign policies to responding to violations by imposing economic sanctions and one needs to discern the mechanism whereby this happens by posing a series of questions, such as: which actor has the authority to decide that sanctions should follow? On the basis of what definition of violations is such decision made? Who and how this decision is to be implemented?
- where economic sanctions have not been imposed in response to human rights violations despite a legal or foreign-policy commitment, one ought to identify the substantive or procedural obstacles within the decision-making process: how are human rights violations in other countries brought to the attention of the actor that should decide on sanctions? By which criteria are violations (and the countries where they have taken place) classified into those that trigger off sanctions and those that do not?

- the imposition of economic sanctions entails purposeful impoverishment of the people whose rights are being championed and reverses the analysis: the starting point is the propensity of sanctions to undermine the enjoyment of human rights in the target country and this requires an inquiry into the existence and operation of the necessary response mechanism: is the actor that originally decided on sanctions monitoring their adverse consequences? Are there substantive and procedural criteria for determining whether human rights violations ensued from sanctions?

Economic sanctions for human rights violations are supported or opposed on the basis of faith that one could label as ideology or possibly secular religion. Its main feature is avoidance of factual verification - either one believes that human rights are advanced by imposing economic sanctions against violators or one believes that it is exactly the opposite. Debates about violations and sanctions thus often resemble a dialogue of the deaf. This paper does not inquire into what people believe, least of all into what they should believe, but starts from the premise that imposing sanctions for human rights violations is an empirical question. One can detect whether and when sanctions were imposed by combining official pronouncements with the data on subsequent inflows of aid or investment into the ostensibly sanctioned country. Economic sanctions are an observable phenomenon and this paper systematizes the practice of resort to sanctions in response to human rights violations thus far. One can delineate sanctions in time to find out, for example, that they can only last thirty-seven days or that a withdrawal of aid constituted 1 percent of the total aid. Such features require changing the usual question - do sanctions work? - into: why are sanctions sometimes imposed although they are too short-lived or too minute to produce any effect on the sanctioned country?

Proponents of sanctions argue that sanctions should - albeit often do not - work. The political bargaining between governments imposing sanctions and those targeted by them enhances discretionary use of power and undermines the very basis for human rights protection. The ease with which a government can free political prisoners or adopt a new constitution to comply with conditions for lifting sanctions points to the equal ease with which such actions can be - and often have been - reversed. One consequence has been the creation of a virtual reality, in which human rights diplomats carry lists of political prisoners to secure their release while visiting their peers and thereafter report that human rights conditionality, or sanctions, or a threat of sanctions worked.

Opponents of sanctions argue that economic sanctions cannot affect 'the state' because such a thing exists in law but not in real world; furthermore, economic sanctions inflict a further penalty of impoverishment upon victims of human rights violations. Opponents of sanctions are routinely accused of commercial opportunism, of pursuing a business-better-than-usual strategy facilitated by denials and violations of human rights. They may furnish proof that sanctions tend to achieve the opposite of what their proponents intended, but nevertheless fail to answer a crucial question: if not sanctions, what?

Many assumptions upon which thinking about 'human rights' and 'economic sanctions' is based - and guides theory-building - do not stand scrutiny. Human rights theorizing is often guided by assuming that violations of human rights nullify human rights law, which equals holding that criminal codes are nullified because homicide - although prohibited - happens all the time, everywhere. Similarly to domestic criminal codes, international human rights law tells states how they should behave, but the similarity stops there. Individuals on the territory of a state are bound by the prohibitions embodied in that state's criminal code even if they

vehemently oppose them, even if they do not know what these prohibitions are. States are only bound by rules they have accepted; the ultimate test for international law is the conformity of states' practice to the assumed rules. This practice is evidenced in the acceptance or rejection of the rule. There are few rules that have thus far been accepted in the states' practice and are enforced through peer pressure. Breaches of these rules are investigated and sanctioned by each state, not by its peers. Economic sanctions as a method of enforcement do not readily fit into international human rights law regardless of the rhetoric accompanying them or the associated theorizing. This paper therefore argues that sanctions are an extra-legal phenomenon.

The gap between the normative and the real world starts from terminology. International law was traditionally inter-state law and its enforcement was based on the assumption that the target of wrongdoing was a state that would react against harm inflicted by another. Such reactions are called *sanctions* but the proper legal term is *countermeasures*, whereby one state responds to an internationally wrongful act of the target state. When the wrongdoing harms a state's own population rather than another state, international law shifts from providing answers to asking questions because the practice of economic sanctions, starting from terminology, remains extra-legal. The International Law Commission (ILC) tried to restrain freedom of action in conditions of deep inequalities between states, which favours the strong at the expense of the weak. The ILC found that 'countermeasures were an exercise in power'<sup>42</sup> and should be subsumed under the rule of law so as to prevent abuses. Its attempt to impose this 'should' upon the unruly 'is' has thus far not been successful.

The Commission on Human Rights has denounced coercive unilateral economic measures and proclaimed them to be in clear contradiction with international law.<sup>43</sup>

The formulation 'clear contradiction with international law' was repeated several times. The Commission condemned 'certain countries [which] using their predominant position in the world economy, continue to intensify the adoption of unilateral coercive measures.'<sup>44</sup> These resolutions reflect predictable anger of the South at the abuse of the economic power by the North. The voting pattern reveals, predictably, the minority of governments using economic coercion on one side and the majority of those likely to become objects of sanctions on the other side.

In countries that were objects of sanctions, conflicting views can be presented in two extremes. One rejects 'a plea that we should be allowed to make a complete mess of ourselves with the world watching and often subsidizing such irresponsibility';<sup>45</sup> the other protests against 'the slow starvation of citizens' because of the inability of the sanctioning countries to 'eliminate the disliked strongmen of weaker nations'.<sup>46</sup> There is disagreement amongst international development agencies as well. The World Bank was drawn into sanctions through donors' consultative meetings where the key shareholders decided in favour of sanctions, while the UNDP declared itself opposed to human rights conditions in development finance and sanctions for violations.<sup>47</sup>

The term *sanctions* was appropriated from law so as to endow countermeasures with a veneer of legal authority. The Security Council is authorized by the UN Charter to impose sanctions while an individual government has no authority to sanction another. Much as the Security Council has the authority to impose sanctions, it does not have the powers to enforce them. Although a sanction's committee is established whenever sanctions are imposed, such committees 'do not have the power either to receive information from any source or to investigate alleged violations by inspections *in situ* or surveillance at the border of the target State, let alone powers to enforce the sanctions resolutions.'<sup>48</sup> Their enforcement is left to individual states

and to peer pressure. Where such pressure is strong consistent sanctions are enforced, where lacking sanctions are ignored.

The abyss between the normative and empirical world permeates all facets of economic sanctions for human rights violations, exemplified by aid cutoffs. Sanctions are intended to punish a government deemed responsible for violations, but are imposed against the state and thus inflict economic deprivation upon the whole country. People already victimized by their government are punished for the sins of their rulers. Economic deprivation is seen as a means to convert governance from violative to protective of human rights. It is expected to force the guilty government to comply with conditions for resumed economic exchanges or to nudge the people to renounce their government. The implicit assumption is that economic deprivation is human-rights-friendly and leads to a beneficial political change.

The original meaning of *sanction* emphasizes authority rather than punishment. The ordinary meaning of the word is 'to invest with legal or sovereign authority, to make valid or binding.'<sup>49</sup> The term *sanctions* (in plural) is used in international relations to denote *enforcement*; the purpose of sanctions is to exact forcibly an action from the sanctioned state. William Safire pointed out this awkward linguistic discrepancy: 'when a sanction become sanctions, its meaning switches from approval to restriction'.<sup>50</sup> Indeed, the choice of terminology - sanctions rather than countermeasures - purports to invest sanctions with authority and linguistically redress the absence of authority for one government to judge the behaviour of another.

Economic sanctions pertain to the menu of coercion applied to mould another state's conduct. Because unequal power is an essential prerequisite for the effectiveness of sanctions, resort to sanctions is based on a perceived power over the target state.



Recommended prohibitions of abuse of economic power by one state against another aim at altering unequal power through the assertion of equal rights. States are equal under international law, much as all humans have equal rights. The use and abuse of economic power remains, however, beyond the rule of law.

The term *human rights* is used in many different ways, least of all as defined in international law. *Violations* refer to a broad range of phenomena, from excessive use of death penalty to electoral irregularities, from military coups to abusive labour conditions, from denial of access to abortion to violence against women. The terms *sanctions* and *violations* reflect political choices.

The justification for sanctions - human rights violations - reveals differences between collective and individual states' behaviour. The collective outputs, condemnatory and punitive decisions triggered off by human rights violations of inter-governmental human rights fora are few, showing the absence of peer pressure. Individual decisions are prevalent and reveal differences in the understanding of both 'violations' and 'economic sanctions.' 'Violations' cover a broad range of atrocities that are legally prohibited (although sometimes not by human rights law), as well as phenomena that are frowned upon by the condemning/sanctioning state but not prohibited, or else the fate of prominent individuals who are deemed to be victimized by their government. The language of 'violations' has expanded much beyond the language of 'human rights'. 'Economic sanctions' may or may not follow the political condemnatory/punitive decision, sanctions may follow with much delay, or in a minim-version of what had been announced. This is particularly frequent in development aid, where announced aid cut offs may take a year or two to implement, or may not happen at all because the foreign-policy and development-aid establishment sometimes do not behave as parts of the same government. The process of decision-making is difficult to research because primary sources are



virtually non-existent. Investigative journalism or NGO newsletters, or else memoirs of retired government officials, shed some light on the sequence of events that led to a particular foreign-policy decision and the corollary economic sanctions.

### **Donors' domestic politics and foreign policy**

The area of foreign policy falls between the cracks of established research disciplines and methods. Human rights were meant to be based upon the rule of law and constitute domestic governmental responsibility. Each government is responsible for human rights within its own territory and international law never anticipated that one government would purport to police and sanctions another. Foreign-policy decisions and economic sanctions have remained beyond law. One cannot start a legal case against a minister of foreign affairs for the damage to human rights attributed to his (much more likely than her) decision to impose economic sanctions against another country. Foreign policy remains in the realm of political accountability. Political accountability is dominantly domestic. The biggest obstacle for coming to grips with economic sanctions is that the population victimized by sanctions does not have a political voice in the country imposing sanctions. Calls for political accountability are increasingly heard when commercial interests of a domestic political constituency are harmed by economic sanctions against another country. Few voices are raised against the punishment of people for the sins of their rulers.

Quite a few Western countries formally adopted a foreign human-rights policy in the 1970s as the basis for responding to human rights violations abroad. Foreign policy is exempt from legal restraints. Where it includes 'human rights,' guidance can be sought in ethics. Since the human rights pronouncements in foreign policies look very much alike, their meaning can be retrospectively inferred from the observable behaviour of the respective governments. Differences between rhetoric

and conduct are frequent. They reveal the contributions of the relevant actors within the government, the parliament and the executive, and within the executive the foreign-policy and the development-aid establishments. Foreign-policy decisions respond to rapidly evolving political events while remoulding bilateral economic exchanges requires a longer lead time. The result is frequently the lack of correspondence between the behaviour of two parts of the same government. The available quantitative data, especially on aid flows, highlight such lack of correspondence: sanctions were sometimes threatened but not imposed, sometimes announced but implemented with much delay or as token gestures.

Domestic support for human rights in foreign policy is high as it is for cutting off aid to human rights violators. Cutting off aid is indeed the most popular sanctions because people are easily mobilized against their money being used to fund foreign dictatorships. The current revival of previous anti-apartheid attempts to impose a humanrights rationale upon trade and investment promises to show whether the abyss between political and economic governance can be bridged. While cutting off aid saves taxpayers' money, cutting off trade constitutes self-imposition of economic costs of sanctions while forcing investors to accept the human rights rationale prevents them from drawing profits generated by the absence of human rights protection on far away countries. By no coincidence, opposition to economic sanctions in countries imposing them, especially the USA, started after sanctions were moved from public to private, from aid cutoffs to restrictions upon trade and investment.

The basis of economic sanctions for human rights violations is a commitment to human rights in foreign policy. This commitment is regularly a self-contained addition to many other commitments with which it often clashes. It is routinely written in beautiful rhetoric of moral imperatives, articulated at such a high level of

abstraction to resemble Delphic utterances. This commitment to human rights of people in other countries is supposed to eschew domestic self-interest as petty or tawdry but neither does nor can accomplish this.

This paper emphasized a paradox: a commitment to human rights which translates into economic sanctions conflicts with a commitment to human rights that translates into development aid. Paradoxically, foreign policies include both - denial of aid as well as its delivery can be seen as the way to improve human rights in recipients.. Common sense may rebel against accepting that both denying and providing aid enhance human rights but foreign policies have to accommodate many divergent and mutually conflicting requirements and thus may conflict with common sense. Moreover, their human-rights pledges may conflict with a commitment to export promotion, which in its turn may conflict with a commitment to peace and security, and that one may be at odds with a separate commitment to humanitarian aid. A separate domestic constituency exists for each of these separate commitments: a militant human-rights lobby may advocate aid cutoffs, joining forces with anti-aid constituencies, but clashing with a development-aid lobby which sees increased rather than diminished aid as necessary for promoting human rights. The linkage between aid and export promotion may not be advocated within a country's formally adopted aid policy but constitutes its necessary component. No country could have a development-aid policy without constituencies which export their goods and services through it. The export-promotion constituency may well slant that country's response to violations away from all formally proclaimed human-rights or development-aid commitments. In situations that have been labeled 'complex emergencies' conventional peace-making aims routinely clashes with the traditional humanitarian urge and the resulting behaviour often displays mutually irreconcilable components of peace-making and humanitarian aid.

A search for a comprehensive and coherent foreign policy that guides responses to human rights violations might be a fruitless exercise - such a policy would assume an importance of human rights of people beyond national borders which simply does not exist. Discarding the assumption that such a policy exists enables a search for those factors that trigger off economic sanctions as a response to some human rights violations while inhibiting them for others. Reality, although unruly, can be systematized into discernable patterns of behaviour, even if these are not as neat as they would have been if they conformed to the rules laid down in international law, or in formally adopted human rights policies.

Foreign policies that promise to make human rights their cornerstone expose themselves to critique because they do not translate into practice. A selfless commitment to benefiting others is not an outcome of domestic politics and one should not expect this. Human rights guarantees were written to regulate relations between the state and its own citizens, not the state's relations with citizens of other countries. These guarantees did not anticipate that economic sanctions would emerge in response to human rights violations and thus said nothing about this phenomenon. A great deal of literature has aimed to close this legal gap by arguing that economic sanctions are illegal and illegitimate or else legitimate and legal. Prevailing disagreements show that not even human rights organizations can reach a consensus amongst themselves. This indicates that not only governmental conduct is subjected to pressures and counter-pressures within and without nominally applicable law and policy, but also the rationale for resorting to economic sanctions for human rights violations is subjected to different interpretations and can be seen as human-rights-friendly or detrimental for human rights.

In the absence of uniform rules for governmental conduct and due to a murky human-rights rationale, economic sanctions for human rights violations remain at

the mercy of foreign policy. A case where domestic self-interest was subordinated to upholding human rights of people far beyond the country's borders, through the imposition of an embargo impeding the import of oil from a repressive regime which happens to be the sole source of oil, for example, has never happened. If it did, it would have demonstrate that domestic self-interest could be subordinated to the rights of others, undermining the preferences of the population in favour of championing with missionary zeal human rights of others and paying the price of self-sacrifice.

Disregarding this unlikely scenario, domestic self-interest should be taken as the determining factor in imposing or inhibiting sanctions for human rights violations. It precludes self-inflicted harm, which is a general feature of economic sanctions. Lisa Martin has argued that in order to make a threat credible, governments imposing sanctions have to demonstrate their willingness to suffer economic losses themselves.<sup>51</sup> Margaret Doxey found such willingness lacking,<sup>52</sup> while David Leyton-Brown took this line of reasoning one step further to conclude that sanctions were routinely used as a weapon of first resort, an easy way for governments to be seen to act.<sup>53</sup>

And yet, acting in the name of human rights of people in far-away countries defies domestic self-interest. Human rights organizations emerged in the 1960s to work for human rights of others, constraining domestic self-interest by positing the value of shared humanity and the duty of those able to act to do so for the benefit of those whose rights were denied or violated. Domestic self-interest thus cannot be the only explanatory factor - economic sanctions are constrained by domestic self-interest but are also constraining it. A great deal of evidence shows that imposing sanctions was a gesture exacted from a particular government by an articulate domestic

constituency or by the government's peers (who were pressurized to act by their domestic constituencies).

Foreign policy operates in a world of appearances as well as realities. Symbolic gestures are intended for specific audiences. The importance of saving face or creating an illusion of accomplishment may be disregarded in quantitative studies that examine the financial value of sanctions, but is evidenced in self-assessments by governments. Definitions of what a human rights policy really seeks to accomplish, below the layer of beautiful but abstract terms, can be very pragmatic. The British government united the foreign-policy and development-aid ministries into producing a joint brochure on human rights (an unusual event since the two ministries, wherever they exist as separate actors, tend not to define human rights similarly). Amongst coloured photographs on thick glossy paper which characterizes such governmental human rights policies and reports, there was an emphasis of the need for dialogue with China and a proud statement: 'We regularly raise the cases of individuals and have received information about all those on the EU's list.'<sup>54</sup> This tendency of confine human rights successes to the fate of internationally known individuals dominates foreign policies and facilitates reporting on accomplishments. The underlying personalization fits the purpose - a detainee liberated, human rights problem solved, the country can be taken off the agenda. Summarizing the record of the Carter administration, which is often credited for institutionalizing human rights in foreign policy, David Heaps listed 'the release of political prisoners in Indonesia; the imposition of less harsh punishment on foes of the regime in South Korea; the more conciliatory treatment of political opponents in the Philippines; the liberation of prominent dissenters such as Jacobo Timerman in Argentina.'<sup>55</sup> Such individualization fits with the individualism in-built in international human rights law, where an individual victim of an individualized violation is given access to a retroactive remedy. It does not fit with systemic and structural approaches that are



necessary for building human rights protection for all. Such approaches would necessitate a long-term commitment by donors and that for an investment far beyond the minuscule sums allocated for human rights in aid budgets. Preference for an alternative that is both easy and costless - confining human rights to individual cases of prominent dissidents - satisfies many different audiences.

The large number of economic sanctions that were too short or too minuscule to produce any effect upon the target country demonstrate that sanctions relate to a large number of diverse target audiences and cannot be reduced only - not even mainly - to relations between the two states where one imposes sanctions against another. If a government is forced to act, or to be seen to act, despite the absence of an obligation to do so, there obviously are pressures which secured that such discretion is exercised. The background may have been a discretionary determination of human rights violations and the reaction may have been economic sanctions which are apparent rather than real. The search for explanations necessitates singling out the various audiences to which the government's response to human rights violations in other countries relates. Because there are many and a message to one may undermine the one to another, the response exhibits different, often contradictory features.

### **The impact on human rights**

The traditional approach in international relations or foreign policy analysis, positing that states (represented by governments) are the key actors, cannot be applied to the field of human rights because non-governmental organizations by far outnumber states as actors creating information on human rights violations and shaping the public opinion. In this area, governments follow rather than leading. Various governments have recently established ministries or secretariats with 'human rights' in their name but non-governmental human rights organizations have



been active in the field at least three decades. The mobilizing power of human rights led in the 1960s to a simple idea: exposing human rights violations is the first step towards opposing them. Globalization of human rights activism was seen as the corollary to the universality of human rights. A moral right to do good was easy to construct. 'Amnesty International does not consult the prisoners about whether they want to be adopted,' argued Cosmas Desmond in a critique that created quite a stir at the time, 'it assumes that if a person is in prison the most is to get him or her out, regardless of any wider political implications.'<sup>56</sup> One consequence of such a moral right to do good is the ease with which it can transform people for whose benefit action is undertaken into objects of protection rather than subjects of rights.

Growth of human rights organizations intensified in the 1970s, when human rights became part of foreign policies of Western governments. Audiences for reports about human rights violations multiplied, demands for information even more with every controversy about how best to respond to human rights violations in other countries. The linkage between violations and aid flows focused attention to aid recipients, its punitiveness split human rights organizations. Some lobby for their imposition, others against their use. Amnesty International decided not to support the imposition of sanctions, the Asia Watch (now Human Rights Watch) 'believes that economic sanctions should be imposed when governments have engaged in gross abuses.'<sup>57</sup> Human Rights Watch went further and presented this strategy for resort to sanctions against Bosnia and Herzegovina:

First, a mechanism should be established whereby human rights organizations, ... can report to and work with international financial institutions (IFIs) on the question of whether local authorities are truly complying with the Dayton Peace Accords - including the surrender of indictees - and are otherwise not violating basic international human rights

standards. This would allow the IFIs to receive accurate, timely and specific information on which entities should receive assistance and which should not, and would enable IFIs to outline specific steps that jurisdictions must undertake to receive assistance, as well as to specify the conduct that would trigger the reduction or termination of assistance.<sup>58</sup>

The elevation of human rights organizations to an officially recognized source whose information would be directed at the manipulation of aid flows by multilateral agencies, such as the World Bank, that have neither the mandate nor the competence in human rights, vividly portrays how much economic sanctions have become dissociated from human rights law or, for that matter, law in general.

Exposure of abuses was originally intended to lead to political judgments by inter-governmental organizations or to international litigation. The inclusion of human rights in the foreign policy of many Western countries broadened responses to human rights violations from international political and/or legal judgments to economic and/or financial sanctions, first bilateral and then also multilateral. Documented abuses are increasingly used as an incentive to suspend or reduce foreign and international funding. The institutionalization of human rights conditionality followed suit. Constituencies lobbying for sanctions conflict, however, with those advocating uninterrupted flows of aid, trade, or investment. The interplay between the two accounts for the apparently inconsistent pattern of sanctions thus far.

Exposure of abuses abroad aims to mobilize people into action against the government deemed responsible. This mobilization targets initially one's own government to nudge it into action against another, embarrassing and publicly shaming it for failing to act. A mere protest is rarely deemed to constitute a

satisfactory action; sanctions are advocated, or even a military intervention under some acceptable name that includes the adjective 'humanitarian'. Economic sanctions are the easiest way for a government to be seen to act, a problem-avoidance strategy which pacifies vocal domestic constituencies without incurring an economic cost. If sanctions are minute and imposed also by allies, the political cost is, equally, minute.

Human rights organizations, spreading their activities from the nucleus in Western countries, globalized their reach. With the entry of human rights into Western foreign policies, their findings could be channelled to governments in their home countries and documenting abuses targeted aid-receiving countries because the interest for them was the biggest and the possibility of changing their practice embodied in wielding the aid lever. A political judgment that another government is a human rights violator responds to the impetus from domestic, foreign or international constituencies. Thus, reporting on-going abuses became during the past two decades the *raison d'être* for a large number of human rights organizations. Their reports (and the associated media coverage) are routinely scheduled to coincide with decision-making on the terms of economic exchange with countries that are the object of such reports.

International human rights activism started with the slogan that people whose rights were protected should act in defense of those who were less fortunate. A right to speak on behalf of victims of human rights violations was easily created and was followed by a right to act on their behalf; this was followed by a right to monitor, accompanied by lobbying for economic sanctions against monitored countries. Applying the criminal-justice model, such activism sought to sanction offenders but, at the same time, neglected victims. Sanctions were justified by their aim of punishing the offender/violator while the victim - as in the criminal-justice model

- had no role. Advocacy of sanctions implied a right to cause harm, to compound victimization by one government by the economic hardship inflicted by another government.

Such a rationale for economic sanctions as a response to human rights violations became an object of increasing controversy. Governments aligned themselves along the line of the sanctioning and the sanctioned; a large number of various United Nations resolutions has been adopted against the abuse of Western economic power, which sanctions are seen to exemplify. As sanctions, as well as grounds for imposing them, have multiplied the risk of being targeted by sanctions as well as opposition to sanctions. Calls for safeguards against the abuse of economic power seen in this pattern of sanctions, but safeguards have proved elusive. A series of recommendations has been developed to prevent abuses of economic power in inter-state relations. Within the OAS (Organization of American States), a prohibition was written into the very OAS Charter. The obvious, albeit un-named, target of that prohibition was the USA. Although part of a treaty and thus a legal norm, that prohibition has had no effect on the US conduct towards other members of the OAS. Thus, the normative and empirical realm are as far apart as they have always been.

Concerns about double victimization and disregard of the human rights of victims have polarized inter-governmental human rights bodies. When economic sanctions are imposed on human rights grounds, dilemmas about justifying or challenging the abuse of economic power in inter-state relations do not diminish but increase. The human rights rationale of preventing abuse of power clashes with the rationale behind sanctions. When abuse of power is justified by the human rights rhetoric, the circle is squared: sanctions affect the whole population of a state and are justified by coercing its rulers (who are regularly not affected by sanctions) into respecting human rights.

## **Concluding remarks**

Human rights are defined here as safeguards against abuse of power by the government. These are established through collective governmental decisions to constrain their own power through collective and individual self-policing. The scheme is simple: each government should police itself because governments are the principal violators as well as protectors of human rights. Governments acting collectively define the minimal standards of acceptable behaviour and supplement self-policing. Collective self-policing would require a commitment to human rights that was - and is - more than rudimentary. Since inter-governmental decisions against human rights violators have been too few from the viewpoint of the proponents of the condemn-and-sanction practice, a parallel track was established through the institutionalization of a 'right' of individual governments to police and penalize others. Most sanctions have been unilateral and bypassed the procedural rules of inter-governmental decision-making as well as in the rule of law.

Economic sanctions ostensibly imposed as a response to human rights violations have thus far dominantly consisted of aid cutoffs. They can be studied as an exercise in power politics or as an idealistic mission of putting the world to rights. Neither captures reality. Underneath the veneer of such extreme theoretical approaches there are interwoven, often conflicting, threads created by acts and omissions of the many actors involved in economic sanctions for human rights violations. The task is then to solve a large number of real-life puzzles in order to discern the pattern, and therefrom to infer the likely rationale of the main actors in the chain of decision-making.

The practice of imposing economic sanctions for human rights violations was and is arbitrary because decisions are inherently political. Whether the basis is 'political'

or commercial foreign policy, decisions are exempt from safeguards against abuse of power. Domestic politics in the sanctioning country is not necessarily guided by abuses in the sanctioned country. The absence of rule-of-law constraints facilitates abuse of power.

Future historians might define human rights as a phenomenon of the second half of the twentieth century and may well conclude that the discrepancy between human rights as a normative statement and an empirical reality made the demise of human rights predictable and inevitable. Another possible conclusion could be that economic sanctions ostensibly imposed for human rights violations contributed to the demise of human rights. Such sanctions were most frequent used in 1975-1991, with the USA starting beforehand and carrying on thereafter. Justifications for sanctions have changed, definitions of human rights and violations changed as well. A necessary question follows: was 'human rights' just one of the many justifications for the abuse of economic power?

Flexible, ever-changing definitions of human rights and violations are a necessary tool for legitimizing freedom of action which political actors cherish; they have been more successful in preserving this freedom international than domestical. The imposition of economic sanctions for human rights violations does not harm their own electorate but people in other countries. Since the application of economic sanctions entails purposeful impoverishment, while human rights protection necessitates a great deal of investment, the circle is squared again. Domestic political constituencies are easily mobilized in support of sanctions, however, through the substitution of faith for facts. Indeed, opposition to economic sanctions emerges with concerns about their domestic economic costs. The most frequent sanctions have been suspensions, cutoffs or decreases of aid, perceived as cost-saving rather than only costless for the country imposing them.



Sanctions are often triggered off by a vocal human-rights lobby. (Me-too sanctions, imposed by a government which follows the lead of another, diminish the influence of domestic politics, of course.) A *political* decision to impose sanctions may be easy to achieve for a vocal domestic constituency but may not then translate into *economic* sanctions. Economic governance remains largely immune from democratic decision-making (or political interference, as many economists would put it) as well as from legal constraints required for human rights protection. The human rights rationale exerts some influence in political but none in economic governance. This whole process is routinely researched on the level of inter-state relations. The state is a normative rather an empirical category, and therefore necessitates investigating the main actors in intra-state relations and the confluence of rational and irrational factors that mould the conduct attributed to 'the state'. At least two states are involved, one imposing economic sanctions to force the other to alter its human rights practice. Governments of both states perform to their domestic audience as well as to the outside world. To discern the internal dynamics which shapes that performance, abstract terms such as 'the state' imposing 'economic sanctions' for 'violations' of 'human rights' have to be translated into researchable questions. Asking what economic sanctions are intended to achieve leads one to recognize that their objective is no less than a political change in a far-away country. The assumption underlying sanctions is that such change can be micro-managed from abroad although it is generally acknowledged that change is not sustainable when imposed from outside. Token gestures are then cited as evidence that sanctions were successful. Moreover, a definition of human rights adopted as part of a state's foreign policy may be, for example, intended for a domestic audience rather than inter-state relations, and the imposition of economic sanctions against another state may therefore be a gesture intended for that domestic audience. Effects on the supposedly targeted state can thus be nil because none were intended.



And yet, mobilization around human rights cannot be reduced to uses and abuses of the human rights rhetoric in foreign policy. The ideals of human rights activism cannot and should not be sullied by abuses of the human rights language. There is a whole world of pragmatic idealism that has advanced the cause of human rights during the past decades. A great deal of progress from 'is' to 'should' can be empirically verified. Nevertheless, the role of economic sanctions in that progress is questionable.

The use of human rights language to legitimize external policing and sanctioning undermines the very basis for human rights protection, which ought to be domestic. The implicit rationale for sanctions is remote-controlled political development, an assumption that sanctions will facilitate domestic political change (by producing a momentum for change that could not be generated within the country's domestic political processes), that such change will be orientated against the guilty government but in favour of human rights protection. That rationale remains implicit because it conflicts with what is known about political effects of sanctions in the sanctioned countries, which routinely strengthen the (guilty) government and often channel political changes in the direction of increased repression. Repression is then justified by the combination of impoverishment attributed to sanctions and the external enemy that caused that impoverishment through economic sanctions.

Sanctions make the targeted government accountable to other governments, who are accountable to their own electorates. People in the sanctioned countries - in the name of whose rights sanctions are imposed - are not factored into that equation. Human rights are thus removed from their grounding in the rule of law into the realm of politics. Human rights developed as correctives for domestic political processes but exclude foreign-policy decisions. The design that evolved during the

past decades obliges each government to protect human rights of its own population, but abuses of power by other governments are beyond the reach of the existing safeguards. Developing such safeguards is a challenge for the future.

## Notes

<sup>1</sup> This paper is based on two presentations Prof. Tomaševski made at DIR Tuesday 17 April 1998 (Democracy, Human Right and Donor Conditionalities in Development Assistance) and Tuesday 23 March 1999 (Human Rights in International Development Co-operation: Between Politics and Policy).

<sup>2</sup> The transformation of the former Soviet Union and its Eastern European allies from donors to recipients after the end of the Cold War led to a terminological change: the DAC/OECD (Development Assistance Committee of the OECD) replaced the term 'developing countries' by 'aid recipients,' which reinforced the underlying change, the absence of any alternative source of aid, different from the previous co-existence of Western, Eastern and Middle Eastern donors. This is discussed in Tomaševski, K. - Eastern Europe, in Baehr, P. et al. (eds) - *Human Rights in Developing Countries Yearpaper 1994*, Kluwer Law and Taxation Publishers, 1995, pp. 69-72.

<sup>3</sup> Report of the Preparatory Commission of the United Nations, Chapter III, Section 4, paras. 18-25.

<sup>4</sup> General Assembly - United Nations Development Decade, resolution 2084 (XX) of 20 December 1965, preamble.

<sup>5</sup> United Nations B *Everyman's United Nations. A Basic History of the Organization, 1945 to 1963*, Seventh Edition, New York, October 1964, p. 189.

<sup>6</sup> Boutros-Ghali, B. - *An Agenda for Development 1995*, United Nations, New York, 1995, p. 9.

<sup>7</sup> *Our Global Neighbourhood*, Report of the Commission on Global Governance co-chaired by Ingvar Carlsson and Shridath Ramphal, Stockholm, January 1995.

<sup>8</sup> General Assembly - Renewal of the dialogue on strengthening international economic cooperation for development through partnership, resolution 49/95 of 19 December 1994.

<sup>9</sup> General Assembly - Agenda for development, resolution 49/126 of 19 December 1994.

<sup>10</sup> This has been extensively dealt with elsewhere: Tomaševski, K. - *Development Aid and Human Rights*, Pinter Publishers, London, 1989; *Development Aid and Human Rights Revisited*, Pinter Publishers, London, 1993; *Between Sanctions and Elections: Human Rights Performance of Donor Governments*, Pinter/Cassell, London, 1997.

<sup>11</sup> The Western European and Other States (WEO) group has nominally twenty-six members

(Andorra, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Spain, Sweden, Turkey, and United Kingdom). For the purpose of election to the UN Commission on Human Rights it has two additional members, the USA and Japan. Two states based in Europe, the Holy See and Switzerland, and not members of the UN but have observer status.

<sup>12</sup> The initial membership of the United Nations was 51 states. The largest regional group was Latin America with 20 states, and its composition has hardly changed since. The second largest group was Western Europe and Others with 13 members. The Asian group had initially 8 members (China/Taiwan, India, Iran, Iraq, Lebanon, Philippines, Saudi Arabia, and Syria), Eastern Europe had six, and Africa was the smallest region with merely four states (Egypt, Ethiopia, Liberia, and South Africa).

<sup>13</sup> Tolley, H. - *The U.N. Commission on Human Rights*, Westview Special Studies in International Relations, Westview Press, Boulder, 1987, p. 11 and 187.

<sup>14</sup> United Nations - *Yearpaper of the United Nations. Special Edition: UN Fiftieth Anniversary 1945-1995*, Martinus Nijhoff Publishers, The Hague, 1995, p. 303.

<sup>15</sup> General Assembly - Setting international standards in the field of human rights, resolution 41/120 of 4 December 1986, para. 4.

<sup>16</sup> The Export Control Act of 1949, as amended by Public Law 89-63, 89th Congress, Section 2, para. 1.

<sup>17</sup> Mutual Defense Assistance Control Act of 1951, Public Law 213, H.R. 4550, 82nd Congress, 65 Stat. 644 of 26 October 1951, preamble and Section 101.

<sup>18</sup> Quoted from Gaddis, J.L. - Containment: A reassessment, *Foreign Affairs*, vol. 55, no. 4, July 1977, p. 876.

<sup>19</sup> USAID (United States Agency for International Development) - *U.S. Overseas Loans and Grants and Assistance from International Organizations*, Washington, D.C., 1982

<sup>20</sup> Milward, A.S. - *The Reconstruction of Western Europe 1945-51*, Methuen & Co., Cambridge, 1984, p. 114.

<sup>21</sup> This is discussed in Tomaševski, K. - *Development Aid and Human Rights*, Pinter Publishers, London, 1989, pp. 1-6, and *Development Aid and Human Rights Revisited*, Pinter Publishers, London, 1993, pp. 29-44.

<sup>22</sup> A 1997 vocabulary depicting an optimal US strategy towards China alternated between constructive and conditional engagement, to move beyond the previous containment and suggest that rather than being contained, China should be constrained. Shinn, J. (ed.) - *Weaving the Net: Conditional Engagement with China*, Council on Foreign Relations, New York, 1997.

<sup>23</sup> Boekle, H. - Western states, the UN Commission on Human Rights, and the '1235 procedure':

The 'question of bias' revisited, *Netherlands Human Rights Quarterly*, vol. 15, 1995, no. 2, pp. 381-484.

<sup>24</sup> Weissbrodt, D. and McCarthy, J. - Fact-finding by nongovernmental organizations, in Ramcharan, B.G. (ed.) - *International Law and Fact-finding in the Field of Human Rights*, Martinus Nijhoff Publishers, The Hague, 1982, p. 190.

<sup>25</sup> Thoolen, H. and Verstappen, B. - *Human Rights Missions. A Study of the Factfinding Practice of Non-governmental Organizations*, Martinus Nijhoff Publishers and Netherlands Institute of Human Rights (SIM), 1986, pp. 114-115 and 34.

<sup>26</sup> Martin, I. - The new world order: Opportunity or threat for human rights? A lecture by the Edward A. Smith Visiting Fellow presented by the Harvard Law School Human Rights Program, Cambridge, 1993, p. 17.

<sup>27</sup> *Human Rights Watch World Report 1993*, New York/Washington/Los Angeles, 1993, p. xvii.

<sup>28</sup> Boekle, H. - Western states, the UN Commission on Human Rights, and the '1235 procedure': The 'question of bias' revisited, *Netherlands Human Rights Quarterly*, vol. 15, 1995, no. 2, pp. 381-484.

<sup>29</sup> Commission on Human Rights - Statistics relating to the fifty-third session of the Commission on Human Rights. Note by the secretariat, U.N. Doc. E/CN.4/1998/109 of 17 November 1997.

<sup>30</sup> Oosterveld, V. - UN mechanisms under threat, *Human Rights Tribune/Tribune des droits humains*, vol. 5, nos. 1-2, April 1998, p. 8.

<sup>31</sup> *Human Rights Practices in Countries Receiving US Security Assistance*, report submitted by State Department to Committee on International Relations, House of Representatives, Washington, D.C., 25 April 1977.

<sup>32</sup> Forsythe, D.P. - Congress and human rights in U.S. foreign policy: The fate of general legislation, *Human Rights Quarterly*, vol. 9, 1987, p. 383.

<sup>33</sup> The sixteen countries were: Afghanistan, Argentina, Benin, Central African Republic, Chile, El Salvador, Ethiopia, Guatemala, Guinea, Laos, Paraguay, Philippines, South Korea, South Yemen, Uruguay, and Viet Nam. Center for International Policy - *International Policy Report: Multilateral Aid Law*, Washington, D.C., 1991, pp. 6-7.

<sup>34</sup> Because the USA was not providing aid to the Soviet Union or Romania, legislative changes of 1974 introduced a linkage between the MFN and the right to leave a country, which was subsequently broadened to other human rights issues.

<sup>35</sup> The USA provided military, security and police assistance to the Philippines as of 1947, and continued to do so throughout the reign of Ferdinand Marcos. Although Marcos ruled by emergency decrees in 1972-86, U.S. aid continued till 1985. Claude, R.P. - Human rights in the Philippines and U.S. responsibility, in Brown, P.G. and MacLean, D. (eds.) - *Human Rights and U.S. Foreign Policy*, Lexington Papers, 1979, pp. 229-253.

<sup>36.</sup> A verbal conflict between the Aquino administrations and the Reagan administration about U.S. aid for 1988-89 revolved around freedom to decide on its use, where the government of the Philippines argued that U.S. aid was 'part of the rent the US pays for its military facilities in the Philippines and how it is spent is entirely up to Manila.' When extension of the bilateral treaty on the U.S. bases was rejected by the Philippines' senate, U.S. aid was cut down by two-thirds. Aid to Manila may hit snags in US Congress, and Massive cut in US assistance for Philippines, *Far Eastern Economic Review*, 5 January 1989, p. 15, and 25 June 1992, p. 20.

<sup>37.</sup> A detailed description of US policies and practices concerning economic sanctions against Argentina during the 'dirty war' (1976-84) is given in Lillich, R.B. - *International Human Rights. Problems of Law, Policy and Practice*, Little, Brown and Company, Boston, 1991, Second Edition, pp. 977-1013.

<sup>38.</sup> Michael Malloy chronologized the excessive resort to economic sanctions by the USA on the basis of presidential emergency powers that had been first established in 1950 against China. Malloy, M.P. - *Economic Sanctions and U.S. Trade*, Little, Brown & Co., Boston, 1990, pp. 595-606.

<sup>39.</sup> Advisory Committee on Human Rights and Foreign Policy - *Human Rights and International Economic Relations*, Report No. 12, The Hague, 29 May 1991, mimeographed, p. 47.

<sup>40.</sup> Long-term research on the effectiveness of economic sanctions by Gary Hufbauer, Jeffrey Schott and Kimberly Ann Elliott at the Institute for International Economics has amply demonstrated the ineffectiveness of the manipulation of aid flows, as they termed it, regardless of the grounds upon which sanctions have been imposed. This point is summarized in Elliott, K.A. - Sanctions: A look at the record, *The Bulletin of the Atomic Scientists*, vol. 49, no. 9, November 1993, p. 33-34.

<sup>41.</sup> In earlier decades it was possible for donor to announce that aid would be increased to recipients with good human rights performance so as to reward it, while in the times of constantly decreasing aid budgets this is no longer possible. Human rights have been added as a separate item in donors' budgets with the aim of providing some incentive. This type of aid consists of technical assistance, which is notoriously the least useful type of aid. Krishna Kumar's two main objections to this kind of aid were 'the limited relevance and high costs of training and technical assistance,' and luring away of professional staff from the recipient governments by high salaries offered by aid agencies. Kumar, K. B The nature and focus of international assistance for rebuilding war-torn societies, in Kumar, K. (ed.) *Rebuilding Societies after Civil War. Critical Roles for International Assistance*, Lynne Rienner Publishers, Boulder, 1997, p. 6-7.

<sup>42.</sup> United Nations - Report of the International Law Commission on the work of its forty-fifth session, U.N. Doc. A/48/10, para. 228.

<sup>43.</sup> Resolution 1995/45 of 5 March 1995 cited as authorities the UN Charter, the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter, the Charter of Economic Rights and Duties of States, and the Vienna Declaration and Programme of Action.



- <sup>44</sup>. United Nations - Human rights and unilateral coercive measures, resolutions 1995/45 and 1994/47 of the Commission on Human Rights of 3 March 1995 and 4 March 1994. The 1995/45 resolution was adopted by 24 votes in favour, 17 against and 12 abstentions; resolution 1994/47 was adopted by 23 delegations voting in favour, with 18 against and 12 abstaining.
- <sup>45</sup>. Jason, P. - Bogey of foreign interference, *New African*, March 1994, p. 21.
- <sup>46</sup>. Ollé-Goig, J.E. - Starvation as a policy tool, *Guardian Weekly*, 24 April 1994.
- <sup>47</sup>. Deen, T. - Support for Third World Cry: UNDP says a categoric 'No' to conditionalities, *Terra Viva*, 23 June 1993.
- <sup>48</sup>. Schrijver, N. - The use of economic sanctions by the UN Security Council: An international law perspective, in Post, H.H.G. (ed.) - *International Economic Law and Armed Conflict*, Martinus Nijhoff Publishers, Dordrecht, 1994, p. 157.
- <sup>49</sup>. The Compact Edition of the Oxford English Dictionary, vol. II, Oxford University Press, 1971, p.82-83.
- <sup>50</sup>. Safire, W. - *On Language*, Times Papers, New York, 1980, p. 97.
- <sup>51</sup>. Martin, L. - *Coercive Cooperation: Explaining Multilateral Economic Sanctions*, Princeton University Press, Princeton, 1992.
- <sup>52</sup>. Doxey, M.P. - *International Sanctions in Contemporary Perspective*, MacMillan Press, London, 1987, p. 143.
- <sup>53</sup>. Leyton-Brown, D. - Problems and prospects for economic sanctions, *Third World Affairs 1987*, Third World Institute, London, 1987, p. 97.
- <sup>54</sup>. Foreign & Commonwealth Office/Department for International Development - *Annual Report on Human Rights 1998*, London, April 1998, p. 40.
- <sup>55</sup>. Heaps, D. - Human Rights and U.S. Foreign Policy: The First Decade 1973-1983, American Association for the International Commission of Jurists, New York, 1984, p. 26.
- <sup>56</sup>. Desmond, C. - *Persecution East and West: Human Rights, Political Prisoners and Amnesty International*, Penguin, Harmondsworth, 1983, p. 26.
- <sup>57</sup>. Jones, S.R. - Should aid be linked to human rights improvements? *Human Rights Watch. Quarterly Newsletter*, vol. 10, no. 4, Fall 1992, p. 9.
- <sup>58</sup>. Human Rights Watch - Human rights groups call upon the European Union and World Bank to promote compliance with the Dayton Peace Accords through effective conditionality, Press release, Brussels, 10 January 1997.



## Bibliography

- Advisory Committee on Human Rights and Foreign Policy (1991) *Human Rights and International Economic Relations*, Report No. 12, The Hague, 29 May 1991, mimeographed.
- Baehr, P. et al. (eds) (1995) *Human Rights in Developing Countries Yearpaper 1994*, Kluwer Law and Taxation Publishers.
- Boekle, H. (1995) "Western states, the UN Commission on Human Rights, and the '1235 procedure': The 'question of bias' revisited," *Netherlands Human Rights Quarterly*, vol. 15, no. 2.
- Boutros-Ghali, B. (1995) *An Agenda for Development 1995*, New York: United Nations.
- Brown, P.G. and MacLean, D. (eds) *Human Rights and U.S. Foreign Policy*, Lexington Papers.
- Claude, R.P. (1979) "Human rights in the Philippines and U.S. responsibility," in Brown, P.G. and MacLean, D. (eds) *Human Rights and U.S. Foreign Policy*, Lexington Papers.
- Deen, T. (1993) "Support for Third World Cry: UNDP says a categoric 'No' to conditionalities," *Terra Viva*, 23 June 1993.
- Desmond, C. (1983) *Persecution East and West: Human Rights, Political Prisoners and Amnesty International*, Harmondsworth: Penguin.
- Doxey, M.P. (1987) *International Sanctions in Contemporary Perspective*, London: MacMillan Press.
- Elliott, K.A. (1993) "Sanctions: A look at the record," *The Bulletin of the Atomic Scientists*, vol. 49, no. 9, November 1993.
- Far Eastern Economic Review*, 25 June 1992.
- Far Eastern Economic Review*, 5 January 1989.
- Foreign & Commonwealth Office/Department for International Development, *Annual Report on Human Rights 1998*, London, April 1998.
- Forsythe, D.P. (1987) "Congress and human rights in U.S. foreign policy: The fate of general legislation," *Human Rights Quarterly*, vol. 9.
- Gaddis, J.L. (1977) "Containment: A reassessment," *Foreign Affairs*, vol. 55, no. 4, July.
- Heaps, D. (1984) "Human Rights and U.S. Foreign Policy: The First Decade 1973-1983," American Association for the International Commission of Jurists, New York.
- Human Rights Practices in Countries Receiving US Security Assistance*, (1977) report submitted by State Department to Committee on International Relations, House of Representatives, Washington, D.C., 25 April 1977.
- Human Rights Watch World Report 1993*, New York/Washington/Los Angeles.
- International Policy Report: Multilateral Aid Law*, (1991) Center for International Policy, Washington, D.C..
- Jason, P. (1994) "Bogey of foreign interference," *New African*, March 1994.
- Jones, S.R. (1992) "Should aid be linked to human rights improvements?" *Human Rights Watch Quarterly Newsletter*, vol. 10, no. 4, Fall 1992.
- Kumar, K. (1997) "The nature and focus of international assistance for rebuilding war-torn societies," in Kumar, K. (ed.) *Rebuilding Societies after Civil War. Critical Roles for International Assistance*, Boulder: Lynne Rienner Publishers.
- (ed.) *Rebuilding Societies after Civil War. Critical Roles for International Assistance*, Boulder: Lynne Rienner Publishers.
- Leyton-Brown, D. (1987) "Problems and prospects for economic sanctions," *Third World Affairs 1987*, Third World Institute, London.

- Lillich, R.B. (1991) *International Human Rights. Problems of Law, Policy and Practice*, Boston: Little, Brown and Company, Second Edition.
- Malloy, M.P. (1990) *Economic Sanctions and U.S. Trade*, Boston: Little, Brown & Co..
- Martin, I. (1993) "The new world order: Opportunity or threat for human rights?" A lecture by the Edward A. Smith Visiting Fellow presented by the Harvard Law School Human Rights Program, Cambridge.
- Martin, L. (1992) *Coercive Cooperation: Explaining Multilateral Economic Sanctions*, Princeton: Princeton University Press.
- Milward, A.S. (1984) *The Reconstruction of Western Europe 1945-51*, Cambridge: Methuen & Co..
- Ollé-Goig, J.E. (1994) "Starvation as a policy tool," *Guardian Weekly*, 24 April.
- Oosterveld, V. (1998) "UN mechanisms under threat," *Human Rights Tribune/Tribune des droits humains*, vol. 5, nos. 1-2, April.
- Our Global Neighbourhood*, Report of the Commission on Global Governance co-chaired by Ingvar Carlsson and Shridath Ramphal, Stockholm, January 1995.
- Ramcharan, B.G. (ed.) *International Law and Fact-finding in the Field of Human Rights*, The Hague: Martinus Nijhoff Publishers.
- Safire, W. (1980) *On Language*, New York: Times Papers.
- Schrijver, N. (1994) "The use of economic sanctions by the UN Security Council: An international law perspective," in Post, H.H.G. (ed.) *International Economic Law and Armed Conflict*, Dordrecht: Martinus Nijhoff Publishers.
- Shinn, J. (ed.) (1997) *Weaving the Net: Conditional Engagement with China*, Council on Foreign Relations, New York.
- Thoolen, H. and Verstappen, B. (1986) *Human Rights Missions. A Study of the Factfinding Practice of Non-governmental Organizations*, Martinus Nijhoff Publishers and Netherlands Institute of Human Rights (SIM).
- Tolley, H. (1987) *The U.N. Commission on Human Rights*, Westview Special Studies in International Relations, Boulder: Westview Press.
- Tomaševski, K. (1989) *Development Aid and Human Rights*, London: Pinter Publishers;
- (1993) *Development Aid and Human Rights Revisited*, London: Pinter Publishers;
- (1995) "Eastern Europe," in Baehr, P. et al. (eds) *Human Rights in Developing Countries Yearpaper 1994*, Kluwer Law and Taxation Publishers, 1995.
- (1997) *Between Sanctions and Elections: Human Rights Performance of Donor Governments*, London: Pinter/Cassell.
- United Nations (1964) *Everyman's United Nations. A Basic History of the Organization, 1945 to 1963*, Seventh Edition, New York, October.
- (1995) *Yearpaper of the United Nations. Special Edition: UN Fiftieth Anniversary 1945-1995*, The Hague: Martinus Nijhoff Publishers.
- USAID (United States Agency for International Development) (1982) *U.S. Overseas Loans and Grants and Assistance from International Organizations*, Washington, D.C..
- Weissbrodt, D. and McCarthy, J. (1982) "Fact-finding by nongovernmental organizations," in Ramcharan, B.G. (ed.) *International Law and Fact-finding in the Field of Human Rights*, The Hague: Martinus Nijhoff Publishers.

## DEVELOPMENT RESEARCH SERIES

### WORKING PAPERS:

- No. 1: *Olav Jull Sørensen*: Marketing Issues in Peasant Agricultural Development, 55pp, 1983.
- No. 2: *Hans Gullestrup*: The Ecol-Humanistic Technology - the new Technology as Experiences from the Past, 33pp, 1983.
- No. 3: *Georg Sørensen*: Transnationals and the Transfer of Technology to the Third World, 31pp, 1984.
- No. 4: *Georg Sørensen*: International Bureaucracies and Aid: The Political Economic of the 'B-Share', 11pp, 1984.
- No. 5: *Georg Sørensen*: Notes on Materialism and Boredom - Western Development Ideals, 12pp, 1984.
- No. 6: *Olav Jull Sørensen*: Marketing Systems and Economic Development. An Institutional-Structural Approach, 41pp, 1984.
- No. 7: *Georg Sørensen*: How much Poison is Another Man's Meat? - Notes on the Logic of World Systems Analysis, 29pp, 1984.
- No. 8: *Georg Sørensen*: Peace and Development: Looking for the Right Track, 18pp, 1984.
- No. 9: *Georg Sørensen*: The Twists and Turns of Development Theory - A Comment on "The European Experience" by Dieter Senghaas. 19pp, 1984.
- No. 10: *Jacques Hersh & Ellen Brun*: Aspects of Soviet Participation in a Shifting World Economy. 45pp, 1984.
- No. 11: *Olav Jull Sørensen*: Marketing System Development and Labour Migration: Analysis and Consequences. 41pp, 1984.
- No. 12: *Georg Sørensen*: How Cold is the Second Cold War? - An Assessment of the Scope of 'the Great Contest'. 23pp, 1984.

- No. 13: *John E. Kuada*: Agricultural Development in the Third World. 23pp, 1984.
- No. 14: *Olav Jull Sørensen*: Profiles of Tanzanian Peasants and their Marketing Implications. 52pp, 1984.
- No. 15: *Jørgen Kristiansen*: Urban Passenger Transport in Developing Countries - Socio-economic Impact and the Choice of Technology. 58pp, 1985.
- No. 16: *John E. Kuada*: Marketing Systems in a Development Process. 35pp, 1985.
- No. 17: *Georg Sørensen*: Some Contradictions in a Rich Concept on Development. 14pp, 1985.
- No. 18: *Olav Jull Sørensen*: Marketing of Agricultural Inputs/Implements and Profiles of Farmers in Kenya: Project Preparations. 47pp, 1986.
- No. 19: *Georg Sørensen*: Development Through the Eyes of a Child. 17pp, 1986.
- No. 20: *Georg Sørensen*: International and External Intertwined: 5 Obstacles to Development in India. 20pp, 1986.
- No. 21: *John E. Kuada*: Macro-Micro Integrated Framework for Market Opportunity Analysis and Project Selection. 14pp, 1986.
- No. 22: *Olav Jull Sørensen*: Co-operatives: Movement-to-Movement Cooperation. Some Conceptual Views. 15pp, 1986.
- No. 23: *John E. Kuada*: Financing Rural Food Marketing Systems in Ghana. 16pp, 1986.
- No. 24: *Hans Gullestrup*: Culture, Cultural Analysis and Cultural Ethics - Or What Divides and What Unites Us? (Out of print) (in Danish). 84pp, 1987.
- No. 24a: *Hans Gullestrup*: Culture, Cultural Analysis and Cultural Ethics - Or What Divides and What Unites Us? (Second revised edition) (Out of print) (in Danish). 92pp, 1988.
- No. 25: *John E. Kuada*: Food Marketing in Ghana, the Role of Rural Food Traders. 53pp, 1988.
- No. 26: *Henrik A. Nielsen*: Monitoring Rural Development in Bangladesh. 22pp, 1989.

- No. 27: *Hans Gullestrup*: The Ethical Dilemma in *the* Intercultural Co-operation, or: The Development Aid Worker's Personal Problem (in Danish). 26 pp, 1991.
- No. 28: *Chaiwoot Chaipan*: Current Issues on Economic Development in East and Southeast Asia. 24pp, 1991.
- No. 29: *Henrik Nielsen*: Databased Information on Danida-Projects 1962-91: Overview and Analysis of the Daniproj-Database. 55pp, 1992.
- No. 30: *Hans Gullestrup*: Evaluating Social Consequences of Social Changes in the Third World Countries. 24pp, 1993.
- No. 31: *Johannes Dragsbæk Schmidt*: In The Shadow of the Pacific Century - Comparative Perspectives on Externalities Influence on Economic Policy-Making in Southeast Asian Would-be NICs. 106pp, 1993.
- No. 32: *Henrik A. Nielsen*: Local Community Development Around the Bay of Bengal: Context, Crises and Perspectives. 27pp, 1994.
- No. 33: *Johannes Dragsbæk Schmidt*: Southeast Asian State Responses to a Regionalized World Economy. 21pp, 1994.
- No. 34: *Johannes Dragsbæk Schmidt*: Semi-autonomy in Economic Policy-making: The Case of Thailand. 28pp, 1994.
- No. 35: *Johannes Dragsbæk Schmidt*: Increasing Exports in a Decreasing World Market: The Role of Developmental States in the ASEAN-4. 27pp, 1994.
- No. 36: *Johannes Dragsbæk Schmidt*: State Capacities and Bargaining Strategies in the Global Disorder. 14pp, 1994.
- No. 37: *Samir Amin*: The Future of Global Polarization. 17pp, 1994.
- No. 38: *Peter W. Cunningham*: The Re-affirmation of State Socialism. The South African Debate. 17pp, 1995.
- No. 39: *Andre Gunder Frank*: Nothing New in the East: No New World Order. 28pp, 1994.
- No. 40: *Johannes Dragsbæk Schmidt*: State Intervention in Southeast Asia. Creating Growth without Welfare. 20pp, 1994.

- No. 41: *Garry Rodan: Ideological Convergences Across 'East' and 'West': The New Conservative Offensive.* 24pp, 1995.
- No. 42: *Jacques Hersh: North Korea: Ideal-Type Anomaly.* 18pp, 1995.
- No. 43: *Research Centre for Development and International Relations (DIR), Johannes Dragsbaek Schmidt et al. (eds.): Research Program 1995-1997. Globalization and Social Change - Structures, Systems and Unidisciplinary Research.* 74pp, 1995.
- No. 44: *Feiwei Kupferberg: Ethno-nationalism, Liberal Democracy and the Psychology of the Post Cold War Era.* 19pp, 1995.
- No. 45: *Feiwei Kupferberg: Uncertainty, Chaos and Learning: Prolegomenon to a Sociology of Creativity.* 27pp, 1995.
- No. 46: *Feiwei Kupferberg: Strategic Learning: East Germany as a "Model Case" for Transformation Theory.* 26pp, 1995.
- No. 47: *Li Xing: China and East Asia vs. The West: Controversies, Clashes and Challenges.* 19pp, 1995.
- No. 48: *Kwang-Yeong Shin: Democratization and Class Politics in Korea, 1987 - 1993.* 20pp, 1995.
- No. 49: *Joachim Hirsch: Regulation Theory and its Applicability to Studies on Globalization and Social Change.* 12pp, 1995.
- No. 50: *Ellen Brun: The New Social Contract: Sustainability from below.* 20pp, 1995.
- No. 51: *Li Xing: The Dynamics of East Asian Intra-Regional Economic Relations.* 22pp, 1995.
- No. 52: *Kwang-Yeong Shin: Characteristics of the East Asian Economic System: Authoritarian Capitalism and The Developmental State.* 33pp, 1996.
- No. 53: *Li Xing: Playing Democracy and Human Rights. The International System and the China-West Case.* 17pp, 1996.
- No. 54: *Jacques Hersh & Johannes Dragsbaek Schmidt: Dirigisme or Laissez-Faire? - Catching-up Strategies in the Global System After the Demise of Soviet-Style*



- Command Economies. 22pp, 1996.
- No. 55: *Johannes Dragsbaek Schmidt & Jacques Hersh*: Peace Convergence and Political Legitimacy in Israel and Palestine. 16pp, 1997.
- No. 56: *David Harvey*: Globalization in Question. 22pp, 1997.
- No. 57: *Amiya Kumar Bagchi*: In Praise of the Developmental State. 35pp, 1997.
- No. 58: *Su-Hoon Lee*: The Rise of Environmentalism in South Korea. 31pp, 1997.
- No. 59: *Mark Beeson & Kanishka Jayasuriya*: The Politics of Regionalism: APEC and the EU in Comparative Perspective. 37pp, 1997.
- No. 60: *Manfred Bienefeld*: The State and Civil Society: The Political Economy of the "New Social Policy". 35pp, 1997.
- No. 61: *Duncan McCargo*: Problematising Democratisation: The Thai Case. 22pp, 1997.
- No. 62: *Li Xing*: Conceptualizing the Crisis of Socialism: A Gramscian Approach. Some Reflections on the Chinese Socialist Experience. 41 pp, 1998.
- No. 63: *Henrik A. Nielsen*: Decentralising the Monitoring of Development Intervention: From Local Government Impact-Monitoring. 116pp, 1998.
- No. 64: *Suresh Narayanan*: From Miracle to Realities: The Malaysian Economy in Crisis. 26 pp, 1998.
- No. 65: *Li Xing, Jacques Hersh & Johannes Schmidt*: The Rise and Fall of East Asian Capitalism: Back to the future? 30 pp, 1998.
- No. 66: *Jan Oberg*: Globalization and Responses by Civil Society to Humanitarian Emergencies. 44 pp, 1998.
- No. 67: *Johannes Schmidt*: Development Theory and the Crisis of the State. 30 pp, 1998.
- No. 68: *Johannes D. Schmidt, Jacques Hersh and Li Xing (eds.) and members of DIR*: Research Program 1998-2000 Globalization and Social Change Interdisciplinary Critical Perspectives. 81 pp, 1998.

No. 69: *Katarina Tomaševski*: Human Rights in International Development Co-operation:  
Between Politics and Policy. 69 pp, 1999.