

From the Periphery to the Centre: Emergence of the Human Rights Phenomenon in Finland

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1. Introduction

Particularly in the new millennium, human rights have become an integral discourse of Finland's foreign policy and internal decision-making. Yet, this development is surprisingly recent, as it occurred particularly in the 1990s after the political changes induced by the end of the Cold War. This article explores the emergence of the human rights phenomenon in Finland by tracing it through the decades following the adoption of the Universal Declaration of Human Rights.¹ This examination is connected to global political events of the post-World War II era, and Finnish developments are explored in context with the expansion of the international human rights phenomenon.² The article observes how the human rights discourse has moved from the *periphery* of the Finnish society to

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1. From hereon 'the Universal Declaration'.
2. For this article, the 'human rights phenomenon' is understood to consist of three elements: discourse, community and artifacts. For example Mark Mazower and Basak Cali and Saladin Meckled Garcia talk of the human rights phenomenon; see Mark Mazower, 'The Strange Triumph of Human Rights, 1933-1950' 47 *The Historical Journal* 2 (2004) 379-398; Saladin Meckled-Garcia and Basak Cali (eds), *The Legalization of Human Rights* (Routledge: London, 2006). Other scholars talk of the 'human rights movement'; see Henry J. Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals* (2nd edn, Oxford University Press, 2000); A. W. Brian Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford University Press, 2001); Kirsten Sellars, *The Rise and Rise of Human Rights* (Sutton Publishing: Phoenix Mill, 2002); Makau Mutua, *Human Rights: A Political & Cultural Critique* (University of Pennsylvania Press: Philadelphia, 2002); Sally Engle Merry, 'Anthropology and Activism: Researching Human Rights across Porous Boundaries', 28 *Political and Legal Anthropology Review* 2 (2005) 240-258; Jack Mahoney, *The Challenge of Human Rights: Their Origin, Development, and Significance* (Blackwell Publishing: Malden, 2007).

its *centre*, thus forming the new universal values to which policy makers want to socialize the next generation of Finns. This development has simultaneously transformed Finland from a *peripheral* into a *central* actor in the global human rights phenomenon. Scholars, practitioners and participants of the civil society concur that existing textual sources do not offer a comprehensive account of the discussed events. Thus this article relies, in addition to textual sources, on interviews, correspondence and numerous discussions.³

The concepts *centre* and *periphery* are familiar from the world-systems analysis of Emmanuel Wallerstein, who has utilized them to describe structural positions in a world economy.⁴ Ulf Hannerz has expanded these concepts to include the flow of meanings.⁵ This is the principal significance in which these terms are utilized here, although they are also treated as entailing cultural attributes. Here discussion borrows from Sally Engle Merry's analysis on the production of the human rights regime. Merry characterizes how transnational consensus building occurs in a transnational social space – a *centre* – where actors from all parts of the world come together.⁶ She discusses how this space has its own norms, values and cultural practices; how it is an English-speaking, largely secular, universalistic, law-governed culture organized around the formal equality of nations as well as their economic and political inequality.⁷ When discussed as entailing cultural characteristics, the term *periphery* refers to the opposite: non-English speaking, religion-oriented, local cultures characterized by traditional customs and social structures. Following both the analysis of Merry and Hannerz, the *centre* of the human rights phenomenon is further construed as being 'de-territorialized'.⁸ Consequently, in addition to emerging in such concrete locations as UN offices in Geneva and New York, *centres* may emerge in any given location that becomes the site of transnational human rights activity. Defined in cultural terms as well as referring to flow of meanings, the concepts of *centre* and *periphery* are illuminative of Finnish developments. Particularly during the first decades of the post-World War II era, the processes directing Finland's policy making resembled a *periphery*, whereas during the past decades they

3. Many thanks to Juhani Kortteinen, Martin Scheinin, Tuomas Ojanen, Klaus Törnudd, Mikael Hidén, Matti Pellonpää, Holger Rotkirch and Kristiina Kouros. More generally on the methodology of my research, see Chapter 1 in Miia Halme, 'Human Rights in Action' (Helsinki University Press, 2008). Due to limitations of space, it has not been possible to offer all the issues in this article detailed empirical analysis. For an introduction into the historical origins of human rights in Finland, see Klaus Törnudd, *Finland and the International Norms of Human Rights* (Martinus Nijhoff Publishers: Dordrecht, 1986) at 13-18.
4. Immanuel Wallerstein, *The Essential Wallerstein* (The New Press: New York, 2000).
5. Ulf Hannerz, *Cultural Complexity: Studies in the Social Organization of Meaning* (Columbia University Press: New York, 2000).
6. Sally Engle Merry, *Human Rights & Gender Violence: Translating International Law into Local Justice* (Chicago University Press: Chicago, 2006) at 37.
7. *Ibid.*
8. *Ibid.*

have increasingly, particularly on international issues, acquired cultural characteristics of the *centre*: policy making occurs primarily in English in close collaboration with the de-territorialized transnational social space of international collaboration.

2. The Dawning Human Rights Phenomenon

This article construes the discussed Finnish developments as being closely connected to the general political and ideological events of the post-World War II era, particularly the Cold War. As will be discussed, Finland's relationship with the international human rights regime is, until the late 1980's, construed as being influenced by its special relationship with the Soviet Union. To fully appreciate the importance of this finding, the following section outlines how Western and particularly American influences were decisive on the establishing of the dawning human rights regime, simultaneously demonstrating how the relationship of the Soviet Union and the new regime was distraught from the outset. In addition, this section offers a timeline of expansion for the human rights regime, therefore demonstrating how, instead of a sudden occurrence, the regime's success was the result of gradual development.

In these approaches the present article differs from some existing scholarly accounts. Therefore it is both useful to introduce these approaches as well as to explain how the present article has reached its conclusions. For this discussion, the starting point of the contemporary human rights phenomenon is set at the adoption of the UN Charter of 1945, which entailed a reference to human rights, and the adoption of the Universal Declaration in 1948. The human rights discourse is construed to stem from the Age of Enlightenment and the natural rights theory articulated by such 17th and 18th century figures as John Locke and Immanuel Kant.⁹ Despite abundant scholarship,¹⁰ significant differences exist on how the events

9. See for example John Locke, *Two Treatises of Government* (Awnsham and John Churchill, Black Swan: 1689) Reproduced at <www.lonang.com/exlibris/locke/loc-001a.htm>, (visited on 12.1.2007) and Immanuel Kant, 'The Idea of a Universal History with a Cosmopolitan Purpose' in Hans Reiss (ed.), *Kant, Immanuel: Political Writings* (2nd enlarged edition). Cambridge University Press, 1991[1784] at 41-53. For an introduction to natural rights theories, see Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge University Press, 1979).
10. See among others Marjut Helminen and K. J. Lång (eds), *Kansainväliset ihmisoikeudet* (Lakimiesliiton kustannus: Helsinki, 1987); Raija Hanski and Markku Suksi, *An Introduction to the International Protection of Human Rights* (2nd edn, Åbo Akademi University: Åbo, 1997); Michael Ignatieff, *Human Rights as Politics and Idolatry* (Princeton University Press: Princeton, 2001); Manfred Nowak, *Introduction to the International Human Rights Regime* (Brill Academic Publisher: Leiden, 2003); Susan Marks and Andrew Clapham, *International Human Rights Lexicon* (Oxford University Press, 2005); Zehra F. Kabasakal Arat, 'Forging a Global Culture of Human Rights: Origins and Prospects of the International Bill of Rights', 28 *Human Rights Quarterly* (2006) 416-437; Felipe Gómez Isa and Koen de Feyter, *Interna-*

leading to the adoption of the Universal Declaration are understood. Most common narratives emphasize the revulsion provoked by the Holocaust,¹¹ and identify the emergence of the human rights discourse with the founding conference of the UN in San Francisco in the spring of 1945.¹²

Such narratives are often associated with an emphasis on key individuals such as Eleanor Roosevelt, René Cassin or John Humphrey.¹³ Many scholars also highlight the impact of numerous coalitions that emerged around the human rights discourse at the turn of the 20th century particularly in Europe, among them the famous Ligue française pour la défense des droits de l'homme et du citoyen.¹⁴ The Ligue was founded in France in 1898, and prior to World War I enjoyed a huge membership of 200 000 to 300 000 people. It promoted the founding of similar organizations elsewhere in Europe, although not in the UK, and the French colonial possessions. National Ligues were founded in Belgium and Greece the same year, and in Germany and Austria some decades later.¹⁵

tional Protection of Human Rights: Achievements and Challenges (University of Deusto: Bilbao, 2006). For the historical background of the human rights phenomenon, see among others Jack Donnelly, *The Concept of Human Rights* (Croom Helm: London, 1985); and Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (University of Pennsylvania Press: Philadelphia, 1998).

11. Samantha Powers, *A Problem from Hell: America and the Age of Genocide* (Harper Perennial: New York, 2003); Michael Freeman, *Human Rights: An interdisciplinary approach* (Polity Press: Cambridge, 2002); Mary Ann Glendon, 'The Forgotten Crucible: The Latin American Influence on the Universal Human Rights Ideal', 16 *Harvard Human Rights Journal* (2003) 27-39.
12. Gudmundur Alfredsson and Asbjorn Eide, 'Introduction', in Gudmundur Alfredsson and Asbjorn Eide (eds) *The Universal Declaration of Human Rights: A Common Standard of Achievement* (Kluwer Law International: The Hague, 1999) 5-16; Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting & Intent* (University of Pennsylvania Press: Philadelphia, 1999); Glendon, *The Forgotten Crucible*, *supra* note 11, at 27-39; Susan Waltz, 'Universalizing Human Rights: The Role of Small States in the Construction of the Universal Declaration of Human Rights', 23 *Human Rights Quarterly* 1 (2001) 44-72.
13. Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (Random House: New York, 2001); Lauren, *The Evolution of International Human Rights*, *supra* note 10; William Korey, *NGOs and the Universal Declaration of Human Rights: 'A Curious Grapevine'* (St. Martin's Press: New York, 1998).
14. Simpson, 'Human Rights and the End of Empire' *supra* note 2; Jarna Petman, 'Human Rights, Democracy, and the Left', 2 *Unbound Harvard Journal of the Legal Left* (2006) 63-90; L'Institut de Droit International. Déclaration des Droits Internationaux de l'Homme, 36 *Annuaire de l'Institut de Droit International: Session de New York. Octobre 1929*, 110-112; Laurie S. Wiseberg and Harry M. Scoble, 'The International League for Human Rights: The Strategy of a Human Rights NGO', 7 *Georgia Journal of International and Comparative Law* (1977) 289-313 at 292-3.
15. Ligue des droits de l'homme et du citoyen available at <http://www.ldh-france.org/connaitre_histoire.htm> (visited 8 April 2008); Wiseberg and Scoble, 'The International League for Human Rights', *supra* note 14, at 292-3.

These narratives are also viewed as problematic. Mark Mazower notes how research has demonstrated that Nazi atrocities were far less central to perceptions of the war in 1945 than they are today.¹⁶ Scholars have emphasized how the 'visionary individual' narrative overlooks state power and ignores the efforts of other individuals propagating the cause earlier, such as the émigré Russian lawyer Andre Mandelstam,¹⁷ or H.G. Wells.¹⁸ The impact of Hersch Lauterpacht's book *An International Bill of the Rights of Man* is also often emphasized.¹⁹ Criticism has likewise been aimed at the manner these narratives isolate political and legislative developments from their wider context. Consequently, reflecting the general spirit of forward-looking progressiveness of much human rights scholarship, the emergence of, for example, specific artifacts is discussed rather by referring to developments following their adoption instead of detailed analysis of the historical context and other developments that contributed to the documents' development when they were created.²⁰ This approach gives rise to the impression that the human rights phenomenon progresses with an almost natural-law like momentum to its logical end point.

Aware of these criticisms, this section outlines factors, which are understood as decisive. Overall, greater emphasis is placed on American influences in the drafting efforts for the Universal Declaration than is commonly done. This emphasis has two primary reasons. First, due to the devastated conditions of Europe, as the continent had barely begun to recover from the war, no sources suggest that – despite the adoption of the European Convention on Human Rights in 1950 – surplus efforts were available in 1945 for such systematically orchestrated lobbying efforts that could have yielded sufficient momentum to secure a reference to human rights in the UN Charter or the establishment of the drafting committee for the Universal Declaration. This is reflected for example in the faith of the Ligue française: it was effectively destroyed during World War II

16. Mazower, 'The Strange Triumph of Human Rights', *supra* note 2, at 381. Mark Mazower's discussion provides one reflection of a significant discussion among historians on the interpretation of historic events; see Quentin Skinner, *Visions of Politics Volume I: Regarding Method* (University of Cambridge: Cambridge, 2002); Reinhart Koselleck, *The Practice of Conceptual History: Timing History, Spacing Concepts: Cultural Memory in the Present* (Stanford University Press: Stanford, 2002); Kari Palonen, *A Struggle with Time: A Conceptual History of "Politics" as an Activity* (Lit Verlag: Münster, 2006); see also Kaius Tuori, *Ancient Roman Lawyers and Modern Legal Ideals* (University of Helsinki: Helsinki, 2006).
17. Mazower, 'The Strange Triumph of Human Rights', *supra* note 2, at 381.
18. H. G. Wells, *The Rights of Man or What are We Fighting For?* (Penguin Books: Harmondsworth, 1940); discussed for example in Lauren, *The Evolution of International Human Rights*, *supra* note 10, at 151-152; Mazower, 'The Strange Triumph of Human Rights', *supra* note 2, at 385; and Jan Herman Burgers, 'The Road to San Francisco: The Revival of the Human Rights Idea in the Twentieth Century', 14 *Human Rights Quarterly* 4 (1992) 447-477.
19. Hersch Lauterpacht, *An International Bill of the Rights of Man* (Columbia University Press: New York, 1945); Mazower, 'The Strange Triumph of Human Rights', *supra* note 2, at 385.
20. Mazower, 'The Strange Triumph of Human Rights', *supra* note 2, at 397.

as its members became dispersed, many emigrating to the US. There the Ligue was reorganized and renamed the International League for the Rights of Man with the assistance of American activists. William Korey recognizes the League as one of the only NGOs focussing on human rights during the drafting of the Declaration, and it gained a high profile for example through the memberships of Eleanor Roosevelt and Charles Malik, the future chair of the Drafting Committee, in its board.²¹

US influence is reflected in the documents commonly assigned the status as the most significant predecessors of the Universal Declaration. These include the American Declaration of Independence of 1766 and the Bill of Rights of 1776, the Four Freedoms speech by Franklin Delano Roosevelt of 1941,²² and, a lesser known, yet a highly influential document, the Statement of Essential Human Rights of the American Law Institute of 1945.²³ The latter document is highlighted by both scholars and participants of the drafting process, and for example Johannes Morsink quotes John Humphrey stating, as he prepared the first draft of the Universal Declaration subsequently extensively revised by René Cassin, as 'the best of the texts from which I worked'.²⁴ American NGOs held a decisive role in efforts to gain recognition for human rights in the UN Charter, and individuals either born or educated in the US and North America were in key positions in the drafting process.²⁵ Simultaneously no accounts suggest that

21. Wiseberg and Scoble, 'The International League for Human Rights', *supra* note 14; Korey, *NGOs and the Universal Declaration of Human Rights*, *supra* note 13, at 99-100; Robert C. Cottrell, *Roger Nash Baldwin and the American Civil Liberties Union* (Columbia University Press: New York, 2000) at 169; Samuel Walker, *In Defence of American Liberties: A History of the ACLU* (2nd edn, Southern Illinois University Press: Carbondale, 1999) at 392. For an account on the emigration of European intellectuals during World War II, see Claus-Dieter Krohn, *Intellectuals in Exile: Refugee Scholars and the New School for Social Research (Wissenschaft im Exil)* (The University of Massachusetts Press: Massachusetts, 1993).
22. Four Freedoms Speech, <http://www.fdrlibrary.marist.edu/4free.html>.
23. Reproduced in *The American Law Institute 75th anniversary 1923-1998*. The American Law Institute, (Philadelphia & Pennsylvania, 1998).
24. Morsink, *The Universal Declaration of Human Rights*, *supra* note 12, at 6. For discussion on the document's origins and significance, see Commission to Study the Organization of Peace 1949; Joseph M. Proskauer, *A Segment of My Times* (Farrar, Straus and Company: New York, 1950) at 221-224; Clark M. Eichelberger, *Organizing for Peace: A Personal History of the Founding of the United Nations* (Harper & Row Publishers: New York, 1977) at 270-272; and Glendon, *The Forgotten Crucible*, *supra* note 1, at 32. The Statement, further, has a strong American emphasis: a copy of the US Bill of Rights is included as its appendix, accompanied by discussion on the similarities and differences of the two documents (*American Law Institute: 75th Anniversary 1923-1998* (Philadelphia & Pennsylvania, 1998) at 132-137, 267 and 269-270, 290-292). The other documents commonly mentioned as important precedents for the Universal Declaration are the British Magna Carta of 1215, the British Bill of Rights of 1689, and the French Déclaration des droits de l'homme et du citoyen of 1789.
25. Annelise Riles discusses how this is still characteristic due to 'the leadership of U.S. trained lawyers (of various nationalities) in the building of key institutions of the postwar international

European impacts held an equally significant and consistent role over any of these elements.

To gain further appreciation and context for the impact of American NGOs, it is useful to note that many prestigious internationalist groups involved in the lobbying efforts exerted significant influence in the White House during the Roosevelt administration. These internationalist groups, still recalling the disappointment over US refusal to join the League of Nations, viewed strong US involvement in the new world organization as their key goal.²⁶ Many of them viewed reference to human rights as the paramount element of the UN charter, and accounts of both contemporary and later scholars suggest that the US delegation only came to view their inclusion favourably after the lobbying of powerful American interest groups. With the Soviet Union and Great Britain opposing such inclusion, strong support by the US delegate became pivotal for the success of the evolving UN human rights regime.²⁷ A key moment in the input of American interest groups was May 2, 1945, which marked the deadline of amendments to the Dumbarton Oaks proposals, then entailing no reference to human rights. Interest groups sprung into action, persuading the US delegation to back up the matter, which led to the inclusion of human rights in the UN Charter.²⁸

Instead of operating in a vacuum, the actions of these internationalist groups reflected a moment when in the US, following decades of activism, the civil liberties movement had arisen throughout the country including the US Supreme Court, and the American Bill of Rights was beginning to be celebrated as the defining safeguard of individual liberties.²⁹ One direct link between the

- legal regime' Annelise Riles, 'Anthropology, Human Rights, and Legal Knowledge: Culture in the Iron Cage', 108 *American Anthropologist* 1 (2006) at 59.
26. Andrew E. Johnstone, *Clark Eichelberger, Internationalism and the State, 1941-1948*, Ph.D., (University of Birmingham, 2006) at 133-164; Harold Josephson, *James Shotwell and the Rise of Internationalism in America* (Fairleigh Dickinson University Press: Rutherford, 1975); John Milton Cooper Jr., *Breaking the Heart of the World: Woodrow Wilson and the Fight for the League of Nations* (Cambridge University Press: Cambridge, 2001); Eichelberger, *Organizing for Peace*, *supra* note 23, at 268-272; Korey, *NGOs and the Universal Declaration of Human Rights*, *supra* note 13, at 29-50; Simpson, 'Human Rights and the End of Empire' *supra* note 2, at 190-202.
27. Korey states: 'What is especially striking, and generally not known, is that the historic breakthrough never would have taken place without the commitment, determination and pressure of a group of American nongovernmental organizations'. The drafting efforts featured 42 US-based interest groups which participated in the negotiations in a consultative status; see Korey, *NGOs and the Universal Declaration of Human Rights*, *supra* note 13, at 35-39. No other country enjoyed similar representation.
28. Proskauer, *A Segment of My Times*, *supra* note 23, at 219-227; Eichelberger, *Organizing for Peace*, *supra* note 23, at 268-272; Commission to Study the Organization of Peace, 'Petition to The Honorable Edward R. Stettinius, Jr.' (March 31, 1945); Glendon, *A World Made New*, *supra* note 13, at 17. For a more cautionary version of this origin, see Simpson, 'Human Rights and the End of Empire', *supra* note 2, at 243-244, 251-253.
29. Walker, *In Defence of American Liberties*, *supra* note 22; Cottrell, *Roger Nash Baldwin and the*

American civil liberties movement and the drafting of the Universal Declaration is drawn by Roger Baldwin, the internationally minded long-term chairman of the American Civil Liberties Union, who is stated to have single-handedly reorganized the International League for the Rights of Man.³⁰ This personal link is one of many between the American civil society and its contributions to the efforts to draft the 'International Bill of Rights', as the Universal Declaration was called for example by Eleanor Roosevelt.³¹ However, it should be noted that after this active start, the relationship of the US and the human rights regime soon became distraught, as the US continually treated human rights and human rights violations as something that existed abroad, notwithstanding its intense ongoing battle for the civil rights of African Americans.³² This policy of 'double standards' continues to arouse criticism along with the heavy reservations that accompany US ratifications of human rights treaties.³³

3. The First Decades of the Human Rights Phenomenon

After the Universal Declaration was adopted in 1948, scholarship commonly portrays subsequent development as a smooth and unchallenged triumph for

the human rights phenomenon. Closer examination suggests a more complex reality with the first decades after the adoption being overshadowed by the Cold War and marked by uncertainty and slowness. The 1950s and the early 1960s were particularly challenging: efforts to draft the Covenants on Civil and Political Rights as well as Economic, Social and Cultural Rights faced continual difficulties, and UN offices, including the Human Rights Commission, faced charges of increasing 'politicization' leading to inefficiency and coalition building.³⁴ As a consequence of these charges, numerous powerful American NGOs turned their attention away from UN bodies and began exerting impact on the American and other governments instead.³⁵ This intensified American unilateralism as the country, after resorting back to its earlier policy of isolationism, started increasingly to remain outside the UN framework. These developments undermined hopes for the new era of multilateral collaboration that had accompanied the founding of the organization.

Some scholars have also assessed that the UN human rights framework was challenged by the adoption of the European Convention on Human Rights in 1950 as well as the founding of the European Court of Human Rights, which provided a supranational forum for individual petitions, something that in the UN context was much weaker.³⁶ This led to increasing European collaboration – an outcome to which disappointment over the prolonged treaty negotiations at the UN certainly contributed – and some commentators have assessed this to have rendered the future of the UN's human rights regime uncertain.³⁷ Combined, these circumstances led to a situation where for much of the period between 1945 and the early 1970s human rights remained 'a "minority" interest'³⁸ in the UN. Dag Hammarskjöld, for example, is stated to have given them low priority when he became the organization's Secretary-General in 1953.³⁹ Global public attention was occupied by security concerns, the Warsaw Pact and its tanks, the energy crisis and nuclear disarmament, and human rights remained at the margins of international collaboration.⁴⁰

American Civil Liberties Union, *supra* note 22; Paul L. Murphy, *World War I and the Origin of Civil Liberties in the United States* (W. W. Norton & Company: New York, 1979). Central in this development was the 1925 Scopes 'Monkey' trial over the teaching of the Darwinian theory of evolution versus the Biblical story of creationism at schools; see *The State of Tennessee v. John Thomas Scopes*, Case Number 5232 (1925); Edward J. Larson, *Summer for the Gods: The Scopes Trial and America's Continuing Debate over Science and Religion* (Harvard University Press: Cambridge, 1997) at 35; George M. Marsden, *Fundamentalism and American Culture* (Oxford University Press, 2006). This controversy is still ongoing.

30. Wiseberg and Scoble, 'The International League for Human Rights', *supra* note 14, at 292-293; Korey, *NGOs and the Universal Declaration of Human Rights*, *supra* note 13, at 99-100; Cottrell, *Roger Nash Baldwin and the American Civil Liberties Union*, *supra* note 22, at 169; Walker, *In Defence of American Liberties*, *supra* note 22, at 392.
31. Eleanor Roosevelt, *The Autobiography of Eleanor Roosevelt* (Da Capo Press Inc.: New York, 1992 [1961]) at 314. Mary Ann Glendon mentions how as the drafting progressed, the drafting committee slowly came to use the term *declaration* more often than *bill*; see Glendon, *A World Made New*, *supra* note 13, at 66.
32. Sellars, *The Rise and Rise of Human Rights* (2002), *supra* note 2, at 114-133; Francis Adams and Barry Sanders, *Alienable Rights: The Exclusion of African Americans in a White Man's Land 1619-2000* (2003) at 265-294.
33. Noam Chomsky, 'The United States and the challenge of relativity', in Tony Evans (ed.) *Human Rights Fifty Years on: A Reappraisal*. (Manchester University Press, 1998) 24-56; Catherine Redgewell, 'US reservations to human rights treaties: all for one and none for all?', in Michael Byers and Georg Nolte (eds) *United States Hegemony and the Foundations of International Law* (Cambridge University Press, 2003) 392-415; Glendon, *A World Made New*, *supra* note 13, at 193-199; Sellars, *The Rise and Rise of Human Rights* (2002), *supra* note 2, at 75-85; Tony Evans, *US Hegemony and the Project of Universal Human Rights* (MacMillan Press Ltd: London, 1996) at 72-95.

34. Thomas M. Franck, *Nation Against Nation: What Happened to the U.N Dream and What the U.S. Can Do About It*, (Oxford University Press: New York, 1985) at 94-116; Glendon, *A World Made New*, *supra* note 13, at 208; Evans, *US Hegemony and the Project of Universal Human Rights*, *supra* note 32, at 86.

35. Korey, *NGOs and the Universal Declaration of Human Rights*, *supra* note 13, at 139.

36. Glendon, *A World Made New*, *supra* note 13, at 217.

37. Simpson, 'Human Rights and the End of Empire', *supra* note 2, at 511-542; Glendon, *A World Made New*, *supra* note 13, at 200-202.

38. Evans, *US Hegemony and the Project of Universal Human Rights*, *supra* note 32, at 148.

39. Glendon, *A World Made New*, *supra* note 13, at 208.

40. Evans, *US Hegemony and the Project of Universal Human Rights*, *supra* note 32, at 148; Thomas M. Franck, *Nation Against Nation: What Happened to the U.N Dream and What the U.S. Can Do About It* (Oxford University Press: New York, 1985) at 76-93.

In the mid-1960s and 1970s the scales began to tip as the 'painfully slow' drafting efforts for the two Covenants started to bear fruit.⁴¹ In 1966 the Covenants for Civil and Political Rights as well as Economic, Social and Cultural Rights were finally signed. It took yet another decade for the Covenants to enter into force, but in 1976 the 'International Bill of Rights' was finally completed.⁴² In terms of ratification signalling adherence of diverse states to the new regulatory human rights framework, the 1970s became decisive. For example the Covenant on Economic, Social and Cultural Rights was during the 1960s ratified by only six states: Cyprus, Tunisia, Syria, Colombia, Ecuador and Costa Rica – a slow momentum which can in part be ascribed to the necessity of bringing domestic legislation into conformity with the provisions of the Treaty before ratifying it. Yet by the end of the 1970s the number had grown to 61.⁴³ After this start, other documents soon followed: the Convention on the Elimination of All Forms of Racial Discrimination (CERD) entered into force already in 1969; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1981; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1987; and the Convention on the Rights of the Child (CRC) in 1990.⁴⁴

4. From 'Finlandization' to 'EU Model Pupil'

The relationship of Finland and the human rights phenomenon in the past decades remains a source of intense debate. This section attempts to introduce the different viewpoints of this discussion while simultaneously outlining how these developments are understood for the purposes of this article. To summarize, until the late 1980s Finland's attitude toward the human rights phenomenon is seen as being influenced particularly by its former official external affairs' policy of *neutrality* and its relationship with the Soviet Union. Both of these factors are further perceived as having contributed to a situation where the relationship of

41. Glendon, *A World Made New*, *supra* note 13, at 206.

42. ICCPR International Covenant on Civil and Political Rights, CESCR International Covenant on Economic, Social and Cultural Social Rights, 1976. <www.unhcr.ch/html/menu3/b/a_ces-cr.htm>, site visited on 4.4.2006; Evans, *US Hegemony and the Project of Universal Human Rights*, *supra* note 32, at 91-95; Sellars, *The Rise and Rise of Human Rights*, *supra* note 2, at 75-81; Matthew Craven, *The International Covenant on Economic, Social, and Cultural Rights: A Perspective on Its Development* (Oxford University Press: New York, 1995); Louis Henkin (ed.), *The International Bill of Rights: The Covenant on Civil and Political Rights* (Columbia University Press: New York, 1981).

43. Office of the United Nations High Commissioner for Human Rights. Status of Ratifications of Principal Human Rights Treaties as of 9 June 2004, available at <<http://193.194.138.190/pdf/report.pdf>> (visited 10 May 2005).

44. All ratification dates available at <www.unhcr.ch/html/menu3/b/9.htm> (visited 17 May 2006).

Finland and the international human rights phenomenon was marked by certain internal and external distance. To elaborate this understanding, a brief glance into recent historical developments of Finland is helpful.⁴⁵

The geographic area that today forms the state of Finland was ceded to Russia in 1809 as the consequence of the war of 1808-1809, after having been a part of Sweden for seven centuries. During the Russian rule Finland held the status of an autonomous Grand Duchy. At the turn of the 20th century a nationalistic sentiment emerged among the Finnish population, leading to the desire for independence, in part as a response to the harshening policies implemented by Russia, which entailed assimilatory characteristics. The nationalistic sentiment was followed by political initiatives, and in 1917 Finland declared her independence. During the same year a civil war broke out in Finland between 'Whites' and 'Reds', the latter group supporting the establishment of a communist regime in Finland and gaining military support from Russia. The war left deep ideological tensions in the otherwise unified population. It likewise disturbed the relationship between Finland and Russia, as the involvement of Russian military forces in the civil war had been so extensive that a peace settlement was adopted between the two countries in 1920. For the next two decades, despite underlying tensions, peace prevailed over Finland. This changed, however, at the dawn of World War II when the Soviet Union attacked Finland. This led first to the Winter War of 1939-1940, and then the Continuation War of 1941-1945.⁴⁶

Although Finland lost some of its territory, it maintained its independence, rendering it as a part of the small group of countries to border the Soviet Union but to remain outside the socialist regime in the post-World War II era. Finland's official post-war foreign policy was governed by the principle of *neutrality*, the main intention of which was to remain outside the bi-polar conflicts of the Cold War. However, it has since become rather uniformly agreed upon that during the following decades the Soviet Union exerted a certain influence on both Finland's external affairs as well as its domestic climate. In external affairs the most concrete embodiment of this was the Agreement of Friendship, Cooperation, and Mutual Assistance concluded in 1948. In the agreement Finland agreed

45. This section attempts to provide a wider historical context for the discussed developments by highlighting key elements of Finnish history that form common knowledge for most Finns. Consequently it makes no claims for providing an exhaustive account of the discussed developments. For introduction into Finnish history, see for example Matti Klinge, *A Brief History of Finland* (Otava: Helsinki, 1987).

46. To avoid occupation, Finland allied itself with Germany, a matter that still causes discomfort for the Finnish population. See Tuomo Polvinen, *Between East and West: Finland in International Politics, 1944-1947* (University of Minnesota Press: Minneapolis, 1986). In standard school books, for example, the matter is devoted only fleeting and ambiguous attention. The wars created a great uniformity among the Finnish population as practically all families had members who participated in them.

to defend its territory against military invasion, if required, with Soviet Union assistance, and not to allow its area to be utilized in military action against the Soviet Union. However, the nature and impact of the Agreement continue to generate discussion, as the Soviet Union and Finland held occasionally greatly differing interpretations on the topic.⁴⁷ The era is characterized, particularly by some international commentators, but also increasingly by Finnish scholars, by reservation toward Western influences in politics and public debates as well as by lack of criticism of the Soviet Union in the Finnish media; the period is talked of as *Finlandization*.⁴⁸ Yet the extent of Soviet influence continues to generate vivid discussion: whereas some commentators consider the claims of Soviet influence to be exaggerated, others construe that its full impact has yet to be established. The debate is marked by both intense emotion as well as high interest. For instance, in November 2007, the publication of a new book by Alpo Rusi – a former ambassador who had previously been accused of being a DDR spy, leading to tremendous media interest – was highly featured in all major Finnish newspapers as well as in principal news broadcasts. It was likewise accompanied by vivid debate. The book claimed that in the past, many central politicians in power today continually provided the Soviet Union with information about Finland's internal affairs.⁴⁹

This ongoing debate affects also the manner in which Finland's participation in international collaboration is viewed. Whereas some commentators emphasize continuity in Finnish policy, others locate a decisive qualitative alteration in the late 1980s; this is the view followed in this article. Accounts emphasizing change construe Soviet influence as remaining significant in Finnish foreign policy until the end of the 1980s, when the European political turmoil – led by the collapse of the Berlin Wall in 1989 and the crumbling of the socialist regime – induced rapid and profound changes. Many commentators construe these developments to mark a shift in Finland's foreign policy toward stronger political association with Western Europe, of which one reflection was membership in the Council of Europe. Whereas Finland had previously remained outside of the Council because

47. See Viljo Rasila, Eino Jutikkala and Keijo K. Kulha, *Suomen poliittinen historia 1905-1975* (Werner Söderström: Porvoo, 1980); Blomstedt et al., *Suomen Historia, osa 8: Paasikiven aika, Kekkonen aika, taloudellinen kasvu ja yhteiskuntamuutos, massakulttuurin maibinnousu, taistelut kulttuurista* (Weilin Göös: Espoo, 1988); Ilkka Saraviita, *YYA-sopimus* (Lakimiesliiton kustannus: Helsinki, 1989); Kari Joutsamo, *Puolueettomuus ja EY* (Euro Consulting Oy: Turku, 1990).

48. Timo Vihavainen, *Kansakunta räjähtämällä: suomettumisen lyhyt historia* (Otava: Helsinki, 1991); Jari Luoto, *Ulkopolitiikka ja ihmisoikeudet: Suomen kansainvälisen ihmisoikeuspolitiikan murroskausi 1985-1995* (Gaudeamus: Helsinki, 1997).

49. Alpo Rusi, *Vasemmalta oh – Kamppailu Suomen ulkopoliittisesta johtajuudesta rautaesiripun varjossa 1945-1990* (Gummerus: Helsinki, 2007); MTV3 Netti. 'Rusi Rankkana.' 6.11.2007, available at <www.mtv3.fi/uutiset/txt/kotimaa.shtml/arkistot/kotimaa/2007/11/578343> (visited 8 November 2007).

of 'reasons of (Eastern) foreign politics',⁵⁰ in 1989 Finland joined it as the last Western democracy – only months before the first former socialist state, Hungary. 1991 saw the end of the Agreement of Friendship, Cooperation, and Mutual Assistance with the Soviet Union, and in 1995 Finland joined the European Union, following a favourable referendum.

These political developments were accompanied by other subtle yet significant changes in the general atmosphere of the Finnish society. Signs were visible particularly in the metropolitan area of Helsinki: numerous international chains opened their stores in the downtown area; the streets began to portray a more diverse mixture of different races, whereas the population had previously been almost uniformly Finnish; English and other foreign languages became a regular part of city life. It seemed that as Finland had recovered from the severe recession of the early 1990s, it had become more open than ever. In the late 1990s and the new millennium these cosmopolitan influences have become ever more evident as Finland has become active in EU policies, being among the first nations to adopt the EURO as its national currency. Despite its formal policy of 'non-alignment' in military affairs, today politicians regularly discuss Finland's possibilities to join NATO.⁵¹ In particular, the speeches of many politicians convey the impression that, in addition to Western Europe, a desire exists to strengthen Finland's ideological proximity to the US while taking distance from Russia. In the autumn of 2007 this was illustrated by the speech of Finland's Defence Minister during his official visit to the US: he stated – speaking, according to most leading Finnish politicians, without due consideration and consequently causing significant internal controversy – that Finland's greatest security challenge is today created by Russia.⁵²

5. Human Rights in Finland from the 1950s to the End of the Cold War

These developments provide the background for exploring both the position of the human rights discourse in the Finnish society and Finland's position in the international human rights phenomenon. Although Finland participated in the UN human rights regime from early on, both of these elements are, until the

50. Luoto, *Ulkopolitiikka ja ihmisoikeudet*, supra note 47, at 63; translation by author.

51. Finland's activeness as well as the pro-EU sentiment of many predominant Finnish politicians have lead some sardonic Finnish journalists to cite it as the EU's 'model pupil'. The political enthusiasm – particularly right wing – toward both the EU and the US often appears to exceed that of the Finnish population. Consequently NATO membership remains unlikely due to lack of popular support.

52. Yle Uutiset. 7.9.2007. 'Häkämiehen Venäjä-komentit puhuttavat' 2007, available at <www.yle.fi/uutiset/24h/id69201.html> (visited 29 October 2007).

early 1990s, construed as being influenced by Finland's relationship with the Soviet Union.⁵³ Yet also this matter remains a source of controversy, as other commentators construe such an assessment to overemphasize the importance of Finland's refraining from ethical judgements regarding the human rights circumstances of the East Bloc countries. For the Soviet Union, the relationship with the international human rights phenomenon was marked by conflict already as the new regime was emerging: as was mentioned, during the planning for the UN it became evident that the Soviet Union – echoed by Great Britain – was greatly adversarial toward the inclusion of references to human rights in its Charter.⁵⁴ This opposition continued during the drafting for the Universal Declaration, channelling itself into ideological strife between the West and the Soviet Bloc and resulting in repeated heated exchanges between members of the drafting committee on, among other things, the content of rights.⁵⁵ This tension was summarized in candid fashion by Eleanor Roosevelt who in her autobiography states: 'Thus, over the years, in one capacity or another, I saw a great deal of the Russian delegates and not infrequently felt I saw and heard too much of them, because they were usually the centre of opposition to our ideas'.⁵⁶ However, as was already mentioned, the Soviet Union was not alone in such a distraught relationship with the dawning human rights regime as the US government soon acquired a similarly oppositional relationship with it. Nevertheless, in the end the circumstances surrounding the adoption process led to the 'disappointing abstentions'⁵⁷ of the six Soviet Bloc countries when they abstained to vote for the adoption of the Universal Declaration. The only other countries to abstain were South Africa and Saudi-Arabia, protesting against the articles related to religious freedom, marriage rights and racial equality; Honduras and Yemen were absent from the vote, whereas all the other 48 member states of the UN voted for the Declaration's adoption.⁵⁸

During the Cold War the Soviet Union, despite refraining from voting, seized upon opportunities to utilize the human rights discourse to highlight US racial

53. Luoto, *Ulkopolitiikka ja Ihmisoikeudet*, *supra* note 47, at 63-65.

54. Mazower, 'The Strange Triumph of Human Rights', *supra* note 2, at 398; Proskauer, *A Segment of My Times*, *supra* note 23, at 219-220; Korey, *NGOs and the Universal Declaration of Human Rights*, *supra* note 13, at 33-34.

55. Sellars, *The Rise and Rise of Human Rights*, *supra* note 2, at 67-85; Evans, *US Hegemony and the Project of Universal Human Rights*, *supra* note 32, at 79-95; Tony Evans, 'Power, hegemony and HR', in Tony Evans (ed.) *Human Rights Fifty Years on: A Reappraisal* (Manchester University Press: Manchester, 1998) at 10; Korey, *NGOs and the Universal Declaration of Human Rights*, *supra* note 13, at 46-50; Morsink, *The Universal Declaration of Human Rights*, *supra* note 12, at 157-190.

56. Roosevelt, *The Autobiography of Eleanor Roosevelt*, *supra* note 30, at 311.

57. *Ibid.*, at 322.

58. Universal Declaration of Human Rights, 1948. <<http://www.un.org/Overview/rights.html>> (visited 4 April 2006).

policies⁵⁹ – a topic that had gained embarrassing momentum in 1947 through the petition of the National Association for the Advancement of Colored People (NAACP) of the 'alienable rights' of African Americans in the US.⁶⁰ The US retaliated by focussing on forced labour in the Soviet Union, calling it an institutionalized form of slavery – a charge initially raised by Britain.⁶¹ Later the Soviet Union took a leading role, along with the US, in efforts to stall the negotiations for the Covenants for Civil and Political Rights as well as Economic, Social and Cultural Rights.⁶² Through their ongoing protest, the Soviets 'gained themselves a reputation for obstruction',⁶³ and for example William Korey – an American scholar, it should be noted – has described them as, among other things, becoming notorious for their efforts to 'silence the NGOs at the UN'.⁶⁴

After becoming a member of the UN in 1955, Finland followed the momentum of the other Nordic countries, ratifying for example the principal human rights treaties in the same pace with them in the 1970s and 1980s. Ratifications included importantly the optional protocols, which entailed the provisions that subjected ratifying parties to the monitoring proceedings outlined by the treaty.⁶⁵ In scholarship Nordic countries are commonly construed as progressive regarding the human rights discourse,⁶⁶ and they acquired a high profile in the new UN, which is reflected in the nomination of Norwegian Trygve Lie as the organization's first Secretary General, and Swedish Dag Hammarskjöld as the second.⁶⁷ These positions were followed by others, establishing a tradition of Nordic individuals in important posts in UN organs. In the 1960s Finland worked actively in the Commission on the Status of Women, particularly through the personal contribution of Helvi Sipilä, who later became the first female Assistant Secretary

59. Glendon, *A World Made New*, *supra* note 13, at 193-199.

60. Hugh H. Smythe, 'The N. A. A. C. P. Protest to UN', 8 *Phylon* (1940-1956) 4 (1947) at 355-358; Mazower, 'The Strange Triumph of Human Rights', *supra* note 2, at 395; Francis Adams and Barry Sanders, *Alienable Rights: The Exclusion of African Americans in a White Man's Land 1619-2000* (Harper Collins Publishers: New York, 2003).

61. Sellars, *The Rise and Rise of Human Rights*, *supra* note 2, at 67-75.

62. Glendon, *A World Made New*, *supra* note 13, at 195-199; Simpson, 'Human Rights and the End of Empire', *supra* note 2, at 511-542; Sellars, *The Rise and Rise of Human Rights*, *supra* note 2, at 75-78.

63. Sellars, *The Rise and Rise of Human Rights*, *supra* note 2, at 76.

64. Korey, *NGOs and the Universal Declaration of Human Rights*, *supra* note 13, at 77-94.

65. High Commissioner. Office of the United Nations High Commissioner for Human Rights. Status of Ratifications of Principal Human Rights Treaties as of 09 June 2004, available at <<http://193.194.138.190/pdf/report.pdf>> (visited 10 May 2005).

66. See for example Lauren, *The Evolution of International Human Rights*, *supra* note 10, at 13, 46-47, 51, 79, 81, 107; as well as Heli Pelkonen and Allan Rosas (eds), *Mänskliga rättigheter i Norden* (Åbo Akademi University Press: Turku, 1983).

67. UN Secretaries General, <www.un.org/sg/formersgs.shtml> (visited 8 April 2008); Ove Bring, 'Dag Hammarskjöld and the Issue of Humanitarian Intervention', in Jarna Petman and Jan Klabbers (eds) *Nordic Cosmopolitanism: Essays in International Law for Martti Koskenniemi* (Brill Academic Publishers: Leiden, 2003) 485-518.

General of the UN. An active input was also given by Finland regarding the issue of discrimination and the protection of minority. In 1975 Finland hosted the important Conference on Security and Co-operation in Europe (CSCE), which brought together government leaders from both the West and the Eastern Bloc. Particularly during Conference preparations, human rights issues were thoroughly discussed.⁶⁸ The Final Act of the Conference led to the adoption of Charter 77 signed by prominent Czech intellectuals, which has since been treated as an important document for the advance of the human rights movement in European socialist countries. The Final Act resulted also in the founding of the Helsinki Watch in 1978, which later transformed into the prominent US-based Human Rights Watch.⁶⁹

Finland participated also in the collaboration between the Nordic countries by joining the Nordic Council in 1956.⁷⁰ It participated in the OECD as well as EFTA from the 1960s onwards, and became a full member in EFTA in 1986. Outside government initiatives, the Finnish League for Human Rights was founded in 1979,⁷¹ and the Institute for Human Rights was founded in Åbo Akademi in 1986.⁷² The latter's founding reflecting the establishing of human rights institutions in other Nordic countries: in Norway the Chr. Michelsen Institute (founded in 1978) commenced its human rights program in 1983,⁷³ and in 1987 the Norwegian Institute for Human Rights was founded.⁷⁴ In Sweden the Raoul Wallenberg Institute of Human Rights and Humanitarian Law was founded in 1984.⁷⁵ In addition, increasing research interest in human rights in the Nordic

68. Arie Bloed (ed.), *The Conference on Security and Cooperation in Europe: Analysis and Basic Documents, 1972-1993* (Martinus Nijhoff Publishers: Dordrecht, Boston and London, 1993); Merja Pentikäinen, *Human Rights Commitments within the CSCE Process: Nature, Contents and Application in Finland* (Advisory Board for International Human Rights Affairs No. 3. 1994).

69. Human Rights Watch: About HRW. <www.hrw.org/about/whoweare.html> (visited 16 May 2006).

70. See the Nordic Council 2007. <www.norden.org/start/start.asp?lang=6> (visited 29 January 2004).

71. Finnish League for Human Rights <www.ihmisoikeusliitto.fi/tausta/introduction> (visited 24 August 2006). The League pursues the work of the League for Human Rights established in 1935. Here the pattern seems similar to the already discussed Fédération des Ligues des Droits de l'Homme: that the operations of the League were interrupted with World War II, and restarted again as the human rights movement started to gain momentum.

72. Institute for Human Rights. <www.abo.fi/institut/imr/> (visited 12 November 2007).

73. Chr. Michelsen Institute. <www.cmi.no/> (visited 23 September 2005).

74. Norwegian Centre for Human Rights <www.humanrights.uio.no/english/> (visited 16 May 2006).

75. The Raoul Wallenberg Institute of Human Rights and Humanitarian Law. <www.rwi.lu.se/institute/aboutrwi.shtml>, site visited on 16.5.2006. Iceland has followed a different path, as the Icelandic Human Rights Centre was only established in 1994; see <www.humanrights.is/english/about-us/history-and-mandate/> (visited 21 December 2005). These are not the only human rights institutes of these countries, as Denmark has the Danish Institute for Human Rights, for which a founding year is unavailable; see <www.humanrights.dk/departments/

countries was reflected in the founding of the Nordic Journal of Human Rights (Mennesker & Rettigheter) in 1982.⁷⁶ By the 1980s Finland had established itself as an integral participant in the international human rights regime, with a well-established record of membership in UN human rights treaty bodies as well as the Commission on Human Rights.⁷⁷ Finland received favourable evaluation in its commitment to the human rights phenomenon, and in one evaluation from 1983 it was given the highest rating – together with only Denmark and New Zealand – in an effort at a worldwide comparison of civil and political rights.⁷⁸

Simultaneously Finland's participation has been assessed as being impacted by Soviet influence. In his analysis on the relationship of Finnish foreign policy and human rights Jari Luoto notes that, although Finland's policy of neutrality led to reticence in all matters that could be construed to fall within the domestic sphere of other states, this was most visible regarding questions that related to the Soviet Union.⁷⁹ This sentiment is shared by many individuals who worked with human rights issues at the time. A prominent Finnish human rights expert describes how Finland 'during the Cold War ... stood with [its] "mittens in the air" when we should have taken a stand'. Also the status of the human rights discourse within the Finnish society is described as being controversial, as the era was marked by deep ideological division. On the one end of the spectrum were the student groups with close ties to Western Europe, yet exerting limited societal influence, who established the Finnish branch of Amnesty International in 1974.⁸⁰ On the other were the more influential left-wing groups from social democrats to communists – the group *taistolaiset* obtaining the highest profile⁸¹ – harbouring close sympathies to the Soviet Union. Most of these groups viewed the human rights discourse as anti-Soviet propaganda perpetrated by the US, and consequently opposed any reference to it. Thus, despite treaty ratifications, at

Research/links2/> (visited 18 September 2006). Finland also has, for example, the Erik Castrén Institute of International Law, founded in 1998; see <www.helsinki.fi/eci/Institute/general.htm> (visited 2 April 2008). It is occasionally difficult to draw a distinction between a human rights NGO and an Institute – for example, many Institutes are members of the International Coalition of NGOs.

76. <www.humanrights.uio.no/forskning/publ/mr/guidelines.html> (visited 2 November 2006).

77. Törnudd, *Finland and the International Norms of Human Rights*, *supra* note 3, at 22-28, 276-285.

78. *Ibid.*, at 287; quoting Charles Humana, *World Human Rights Guide* (Hutchinson & Co.: London, 1983) at 24-26, 184-185.

79. Luoto, *Ulkopolitiikka ja Ihmisoikeudet*, *supra* note 47, at 60-65.

80. Amnesty's operations in Finland began in an informal manner in 1964, with the Finnish department founded in 1967. However, at that time it did not achieve national following. Thus a board was selected in 1974, starting a new era reflected by growing membership numbers. See Amnesty International, 'Report 2006: Finland', <web.amnesty.org/report2006/fin-summary-eng> (visited 30 April 2007).

81. Jukka Relander, 'Ulkoinen totuus ja sisäinen kokemus taistolaisessa opiskelijaliikkeessä', in *Tieteessä Taputtuu* 4/1997 (1997).

the beginning of the 1980s Finland appeared to hold greater ideological distance to the human rights regime than the other Nordic countries which, for example, drew direct connections between their development aid and human rights through such programs as the 'human rights based approach to development'. By contrast, in the mid-1990s commentators construed that the approach had not been sufficiently prevalent in Finland, and instead it was only implemented in the new millennium.⁸²

In the other Nordic countries these policies were accompanied by increasing discussions about human rights, which also focussed on the internal conditions of each country. In Finland a participant in the civil society remembers feeling that human rights were continually an unsuitable topic of internal political discussion: thus, for example, the first doctoral dissertation focussing explicitly on human rights issues appeared in Finland only in 1984.⁸³ It was only with the new winds of Glasnost that public attitudes began to change.⁸⁴ In 1990, following Finland's membership in the Council of Europe, Finland ratified the European Convention on Human Rights.⁸⁵ Ratification was preceded by discussion on the compatibility of the Finnish legal system to the requirements of the Convention, with particular concern created by the length of service for conscripts who do not enter into public military service, the status of conscientious objectors, the personnel records held by the police and certain matters relating to foreigners.⁸⁶ However, it has been pointed out how in many other respects Finnish legislation was already in conformity with the Convention due to earlier internal legal developments as a consequence of which many areas of the Convention had been incorporated into the Finnish legal system. By contrast, in the other Nordic countries similar

82. See for example Jari Luoto, 'Suomi varovainen ihmisoikeussaralla' *Kumppani-lehti*, 10.3.1996, <www.kepa.fi/kumppani/513/?searchterm=ihmisoikeudet%20kehitysyhteisty%C3%B6> (visited 5 November 2007); Samuli Seppänen, *Possibilities and Challenges of the Human Rights-Based Approach to Development* (The Erik Castrén Institute Research Reports 17/2005: Helsinki, 2005).

83. Matti Pellonpää, *Expulsion in International Law: A Study in International Aliens Law and Human Rights with Special Reference to Finland* (Suomalainen tiedeakatemia: Helsinki, 1984).

84. Some commentators mention as a seminal event for the new era the 1986 publication of Klaus Törnudd's *Finland and the International Norms of Human Rights*. As Törnudd was at the time working at the Finnish Foreign Ministry, the book has in retrospect been viewed as a semi-official discussion opener; yet Törnudd himself views such an assessment as dramatic exaggeration.

85. European Court of Human Rights, Ratification of the European Convention on Human Rights, <www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/Dates+of+ratification+of+the+European+Convention+on+Human+Rights+and+Additional+Protocols/> (visited 14 June 2007).

86. Matti Pellonpää, 'Euroopan neuvoston ihmisoikeussopimus Suomen näkökulmasta', *Oikeusministeriön lainvalmisteluosaston julkaisu* 21 (Helsinki, 1988) 313-316; Helsingin Sanomat 11/1988, 36-38; Martin Scheinin, *Aseistakieltäytymisoikeus* (Hakapaino Oy: Helsinki, 1988) The status of Finnish conscientious objectors continues to provoke occasional controversy.

incorporation occurred only greatly after the ratification of 1950. It has also been discussed how particularly the first unfavourable rulings against Sweden by the European Court awakened great upset, escalating to discussions on whether the country should resign from the entire Convention.⁸⁷

The 1990s have been characterized as being marked by Finland's increasing activeness in UN contexts, a change that one prominent human rights expert associates to a specific meeting of the Human Rights Commission in spring 1990. During the preparatory meetings, the country's representative simply asked that Finland bring up the kind of considerations relating to the internal affairs of different states that it would previously not have highlighted in its policy of *neutrality*. In the 1990s Finland's increasing activeness in the European human rights regime has been reflected for example in the continually growing numbers with which the Finnish Supreme Court has referred to the European Convention as well as the jurisprudence of the European Court in its rulings.⁸⁸

Finland's intensified engagement at the end of the Cold War reflects the general development of the human rights phenomenon, which had continued its expansion in the 1980s. By the time the core content of the human rights discourse embodied by the Universal Declaration was reaffirmed at the Vienna World Conference on Human Rights in 1993,⁸⁹ the human rights discourse had already established itself as the primary discourse of international diplomacy and cooperation. However, for human rights to develop into the global phenomenon they would become in the new millennium, a seminal event was still required at the turn of the 1990s: the end of the Cold War. As has been repeatedly noted, only this elevated human rights into ideological trumps, making them the moral backbone of the new world order and bringing 'the end of history'.⁹⁰ In their rush to join the liberal world, new post-socialist states hurried to intensify their participation in the human rights regime – a participation that simultaneously signified the abandonment of old ideologies in favour of the one embedded in the human rights discourse. This surge is reflected in the ratifications of the Covenant on Economic, Social and Cultural Rights: in the 1990s it was ratified by the Former Yugoslav Republic of Macedonia, Turkmenistan, Uzbekistan, Slovakia, Slovenia, Moldova, Georgia, Czech Republic, Croatia, Bosnia & Herzegovina and Armenia,

87. Many thanks to Matti Pellonpää for clarification on this point. See also Laura Ervo, 'Förhållandet mellan Europadomstolen och nationella domstolar – finländska perspektiv', 4 *Tidskrift utgiven av Juridiska Föreningen i Finland* 411-422. Of relevance here is also the 1995 Finnish constitutional reform, discussed on page 21.

88. *Ibid.*, at 415.

89. Vienna Declaration. Adopted by the World Conference on Human Rights in Vienna on 25 June 1993, A/Conf. 157/23, 1993, <www.ohchr.org/english/law/vienna.htm> (visited 21 December 2005).

90. Francis Fukuyama, *The End of History and the Last Man* (Harper Perennial: New York, 1993).

as well as all the Baltic countries.⁹¹ By the end of the decade the Covenant had 50 new ratifications, making that decade almost as active in ratifications as the 1970s.⁹² In terms of ratified treaties, former socialist states have rapidly become some of the most active participants in the human rights phenomenon: two have ratified all principal 12 human rights treaties – a record held by only three other states – and a supplementary eight have ratified all but one.⁹³

In Finland at the beginning of the 1990s the internal position of the human rights discourse was still in a flux and had not yet permeated Finnish law, nor was it viewed as the sole discourse on rights. This is reflected in the introduction to Finnish constitutional law by Mikael Hidén and Ilkka Saraviita published in 1994, a volume used as a text book in Finnish law faculties: in its discussion on the background and origins of 'certain inalienable rights', the book uses the formulation 'which can be named e.g. human rights or fundamental rights'.⁹⁴ The reference to fundamental rights introduces an alternative discourse of *perusoikeudet*, which can be construed as more indigenous to the Finnish legal culture as well as holding a significantly longer pedigree. This is highlighted by the book of Mikael Hidén on constitutional rights from 1971: it makes no reference to human rights, discussing instead the origins of fundamental rights as deriving from old laws from the 18th century, when Finland was a part of Sweden. In discussion of the hierarchy of legal norms, no reference is made to international human rights treaties, nor is the Universal Declaration mentioned.⁹⁵ The same findings apply to an introduction to Finnish public law from 1982, which likewise includes no mention of the human rights discourse.⁹⁶

In the Finnish context the two discourses, that of human rights (*ihmisoikeudet*) and 'fundamental rights' (*perusoikeudet*), have further traditionally been substantively distinguished from each other: the latter has referred to the rights of Finnish citizens listed in the Finnish constitution, the former to rights deriving

91. Of these ratifications, six are successions, continuing former treaty relations from the Soviet era.

92. Office of the United Nations High Commissioner for Human Rights. Status of Ratifications of Principal Human Rights Treaties as of 09 June 2004, <<http://193.194.138.190/pdf/report.pdf>> (visited 10 May 2005). Other ratified countries included such diverse states as Thailand, Liechtenstein, Burkina Faso, Brazil, Israel and Switzerland. After 2000 the wave has slowed down, with 10 ratifications from geographically dispersed areas, the most noteworthy coming from China.

93. The list of 12 major instruments is offered on the website of the High Commissioner for Human Rights. In this discussion, the Optional Protocol for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) is excluded; the document has only been ratified by Madagascar.

94. Mikael Hidén and Ilkka Saraviita, *Valtiosääntöoikeuden pääpiirteet* (6th revised edn, Lakimiesliiton kustannus: Helsinki, 1994) at 272; translation by author.

95. Mikael Hidén, *Perusoikeudet Hallitusmuodon II luvussa* (Suomalaisen Lakimiesyhdistyksen vuosikirja I, 1971).

96. Veli Merikoski and Eero Vilkkonen, *Suomen julkisoikeus pääpiirteittäin* (WSOY: Juva, 1982).

'from treaties of international law that bind Finland, or through other arrangements'.⁹⁷ In the aforementioned textbook from 1994, the relationship of Finnish fundamental rights and human rights is further defined as follows: 'Although by no means identical to each other, in many central substantive questions the contents of fundamental rights and human rights norms correspond to each other'.⁹⁸ This distinction has been interpreted as being radically altered by the fundamental rights reform of 1995, which has been characterized as ending their separation from human rights. Veli-Pekka Viljanen discusses how human rights and fundamental rights have become mutually complementary instead of competing orders; how the substantive differences between the two have been effectively annulled. He further notes how Finnish courts and officials have been active in their promotion of human rights, as well as how human rights have entered into the Finnish culture of rights through pervasion, a process which has also been characterized as constitutionalization.⁹⁹ Combined, these developments have been construed to mark the end of the closed Finnish legal culture.¹⁰⁰

6. Human Rights as New Universal Values

In the new millennium the human rights discourse has stabilized its position at the centre of Finland's foreign policy. The centrality of the human rights discourse in Finnish political rhetoric is reflected by the speeches of the country's former Foreign Minister Erkki Tuomioja between the period 1999-2006:¹⁰¹ whereas in 1999 human rights were mentioned in only one in eight and in 2000 one in five speeches, by the year 2006 the frequency was two speeches out of three. On the level of policy-making, the centrality of the human rights discourse is highlighted for example by the Foreign Affairs Ministry's report of 2000, which states the increased centrality of human rights to form an explicit goal for foreign and security policy.¹⁰² This emphasis was strengthened in Finland's 2004

97. Martin Scheinin, *Aseistakieltäytymisoikeus* (Hakapaino Oy: Helsinki, 1988) at 1. See also the Constitutional Law Committee Statement 12/1982; Martin Scheinin, *Ihmisoikeudet Suomen oikeudessa* (Suomalainen lakimiesyhdistys: Helsinki 1991); Tuomas Ojanen, *Perusoikeudet ja ihmisoikeudet Suomessa* (Forum Iuris: Helsinki, 2003); Tuomas Ojanen and Arto Haahea (eds), *EU-oikeuden perusteita* (Edita: Helsinki, 2006).

98. Hidén and Saraviita, *Valtiosääntöoikeuden pääpiirteet*, *supra* note 87, at 273; translation by author.

99. Martin Scheinin, 'Finland', in Martin Scheinin (ed.) *International Human Rights Norms in the Nordic and Baltic Countries* (Martinus Nijhoff Publishers: the Hague, 1996) 257-294.

100. Veli-Pekka Viljanen, 'Perusoikeusuudistus ja kansainväliset ihmisoikeussopimukset', 5-6 *Lakimies* (1996) 788-815.

101. Erkki Tuomioja became Foreign Minister in February 2000, following the election of the former Foreign Minister Tarja Halonen as president. In 1999 Tuomioja was the Minister of Commerce and Industry.

102. Human Rights Report, *Ihmisoikeudet ja Suomen ulkopoliittikka*. Ulkoasianministeriön julkaisuja 9/2000.

Human Rights Report, celebrated as the first of its kind.¹⁰³ Human rights and their advancement have also been highlighted by the new Finnish Government Programme of 2007, which mentions that the Finnish government actively promotes the global advancement of human rights.¹⁰⁴ These developments find their origins in the mid-1990s, when a more general shift occurred in Finnish foreign policy from the former emphasis on disarmament to human rights – a development some commentators assign in particular to Finland's current President and then Foreign Minister Tarja Halonen. These developments have also led to the founding of the Unit for Human Rights Policy as a part of the Political Department of Finland's Foreign Ministry in the mid-1990s. At first the department employed around half a dozen individuals, having since grown to about a dozen; the number was doubled for Finland's EU Presidency in 2006.

The 1990s have also seen increased collaboration between human rights NGOs and the government. This is reflected in the founding of the Finnish NGO foundation for human rights in 1999 established by 11 human rights NGOs including Amnesty International, Finnchurchaid and the Finnish UN Association, which works in collaboration with the Finnish Ministry of Foreign Affairs.¹⁰⁵ Previously similar foundations had been established in Norway in 1988, and in Sweden in 1991. Today human rights NGOs are in Finland also invited to different hearings such as the one organized in 2003 as a background for the Human Rights Report of 2004. Another example of collaboration between the government, the civil society and international actors is the program of the International Helsinki Federation for Human Rights in 2000, which was advertised as 'the broadest and most comprehensive program of human rights monitoring and advocacy in the history of the organization'. The program received funding both from national ministries and the EU, as well as such prominent international funders as the Ford foundation.¹⁰⁶

The manner in which the human rights discourse has permeated Finnish policy-making is also reflected in the educational reforms of the new millen-

nium. Finland's 2004 human rights report mentions that, in the future, human rights education should begin already in primary school, and outlines how ethical discussions in schools should be founded on the Universal Declaration. The report discusses further initiatives already taken concerning human rights education, noting how in the new millennium it has been directed toward the functionaries of foreign affairs as well as others in leadership positions in the government.¹⁰⁷ In the new governmental decree on education from 2002 'respect of life and human rights' was mentioned as forming the foundation for high school education.¹⁰⁸ In 2003, the primacy of human rights was highlighted by the online magazine of the Finnish Ministry of Education, likewise emphasizing how human rights form the foundational values of the new educational curriculum, and in 2007 human rights were invested a similar position in the educational plan by the Ministry of Education for the years 2006-2008.¹⁰⁹

This emphasis on human rights in educational reforms has historical significance due to the strong link that has traditionally existed between the Finnish population and the Lutheran church enjoying the status of state church. Prior to Finland's independence in 1917, only Christians could ascertain civil rights in the autonomous Grand Duchy of Finland, and only after the law on religious freedom of 1923 were Finns permitted to leave the state church. Although church membership numbers have begun a rapid decline in the new millennium, still over 80% of all Finns belong to the state church. Against this background the values as articulated by the Lutheran faith have a long historical emphasis as forming the foundational values of the Finnish society. It has today been well-established that it is unlawful to require non-Lutherans to participate in the teaching of the Lutheran faith in schools, while the new educational guidelines entail simultaneously no criteria that might make it acceptable for individuals *not* to participate in human rights education.

Two conclusions can be drawn from the introduced developments. First, particularly in the 1990s the human rights discourse has become the favoured discourse of Finnish public policy making, not merely in international affairs, but also in such areas as the education. As has been demonstrated earlier in this article, this entails nothing unique, but instead connects Finland to current international trends for example in diplomacy and international law where the human rights discourse enjoys a similarly predominant position. Second, and perhaps even more importantly, instead of mere rhetoric, there is reason to believe that the prevalence of the discourse signifies something more profound: genuine belief in the values

103. Foreign Affairs Ministry, 'Foreign Minister Tuomioja on International Human Rights Day: Finland committed to the rights of minorities', 10.12.2004, <formin.finland.fi/public/default.aspx?contentid=62930&nodeid=15630&contentlan=2&culture=en-US> (visited 29 August 2006). Although similar reports were published in 1998 and in 2000, the 2004 report was greatly more expansive and featured also domestic elements, contrary to earlier ones; yet the main emphasis has remained on external affairs. The report follows the model of Sweden, where similar reports have been drafted for decades. See *Mänskliga rättigheter i Sverige*, 2001, <www.riksdagen.se/shopping/R_ShowItem_____5715.aspx> (visited 2 October 2006).

104. Government Programme, 2007, <www.valtionuuvosto.fi/hallitus/hallitusohjelma/en.jsp> (visited 5 November 2007).

105. The Finnish NGO foundation for human rights, <www.kios.fi/index.jsp> (visited 31 August 2006).

106. International Helsinki Federation for Human Rights, Report 2001 (Events of 2000), <www.eurasianet.org/resource/regional/ihf-toc.html> (visited 8 April 2008).

107. Human Rights Report (2004). Valtionuuvoston selonteko Suomen ihmisoikeuspolitiikasta.

108. Valtionuuvoston asetus lukiokoulutuksen yleisistä valtakunnallisista tavoitteista ja tuntijaosta, 955/2002, <www.finlex.fi/fi/laki/ajantasa/2002/20020955> (visited 3 June 2007).

109. Ministry of Education, 'Opetusministeriön ja opetushallituksen välinen tulossopimus vuosille 2006-2008', <www.oph.fi/info/netra/tulossopimus_2006_2008.pdf> (visited 3 June 2007).

embodied by the discourse, followed by sincere efforts to advance them. I have elsewhere discussed how such commitment is visible in the manner experts teach human rights,¹¹⁰ and the same can be judged to apply to many policy makers on a personal level. Consequently, human rights have can be stated to have gained the position as the new universal values to which Finnish policy makers want to socialize the next generation of Finns.

7. Summary: From the Periphery to the Centre

To summarize these developments, from Finland's membership in the UN in 1955 to the educational policy of 2007, the human rights discourse has moved from the *periphery* to the *centre* of Finnish policy making. Finland's relationship to the human rights phenomenon – measured in terms of participation both in the UN and the European human rights regimes, activeness in commenting on the internal human rights records of other countries, the alignment of public policy with human rights, as well as the activeness of civil society – no longer differs from that of the other Nordic countries. Instead, the Nordic countries are jointly regarded as the global leaders of the human rights phenomenon. They belong to the group of 41 states that have ratified all but one of the 12 principal human rights treaties as enlisted by the UN High Commissioner for Human Rights.¹¹¹ They are active in the UN diplomatic and political community, with numerous of their citizens in high positions in different UN human rights bodies, and they provide substantial funding for the High Commissioner for Human Rights. Some evidence further exists that Finland has become even more active particularly in the European human rights regime than some of its Nordic counterparts: Finland leads, along with Sweden, the number of complaints made to the European

110. Miia Halme, 'Laki ja ihmisoikeudet: etnografinen lähestymistapa.' 1 *Oikeus-lehti* (2007) 32–43.

111. Office of the United Nations High Commissioner for Human Rights. Status of Ratifications of Principal Human Rights Treaties as of 9 June 2004, <<http://193.194.138.190/pdf/report.pdf>> (visited 10 May 2005). For all the Nordic countries the absent treaty is the same as for most Western European states, namely the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW). The position of migrants in the Nordic countries has aroused some criticism, reflected for example in the 2006 Amnesty International report noting how Sweden has deported foreigners; see Amnesty International, 'Partners in Crime: Europe's role in US renditions', 14.6.2006, <web.amnesty.org/library/index/ENGEUR010082006> (visited 24 August 2006). In 2004 and 2005 concern was raised over Sweden's actions to ban torture in the form of exporting suspected terrorists; see Amnesty International, 'Sweden: Concerns over the treatment of deported Egyptians', 28.5.2004, <web.amnesty.org/library/index/engeur420012004> (visited 11 September 2006); Human Rights Watch, 'Sweden Violated Torture Ban with U.S. Help', 20.5.2005, <hrw.org/english/docs/2005/05/20/sweden10991.htm> (visited 28 August 2006). However, such criticism is usually presented against the backdrop of the special responsibilities of Nordic countries as world leaders in human rights affairs.

Court,¹¹² and whereas in Denmark and Norway a debate is continually ongoing on whether the powers of the European Court are too expansive, such a debate has seized in Finland. Instead the Court is seen as forming a regular occurrence in the Finnish legal system.¹¹³

Adherence to human rights by the general population is evidenced by the significant increase of members in human rights NGOs in the new millennium. For example for the Finnish Amnesty International membership numbers have tripled in between 2003 and 2007, jumping from 10 000 to over 30 000.¹¹⁴ Finland's high status in the human rights phenomenon was reflected in its election to the newly formed Human Right Council in May 2006. It is likewise repeated in treaty body proceedings, which provides increasing motivation for participation: Sally Engle Merry mentions a Finnish delegate noting, of the CEDAW Committee proceedings, how 'it is good for the government ministers to come to the hearings to hear the questions and the praise the experts give to countries such as her own that have made notable progress toward gender equality.' This provides valuable feedback about 'Finland's place and image in the world as a leader in women's human rights'.¹¹⁵ Although in the new millennium the human rights phenomenon has met its greatest challenge since World War II, namely the war against terrorism initiated by the US as a response to the terrorist attacks of 11 September 2001,¹¹⁶ in the Finnish context this has not induced severe challenges. Instead, the human rights discourse continues to strengthen its ideological position by gaining increasing centrality in Finnish internal policy making as well as foreign policy, thus continuing the political and legal developments following the end of the Cold War. Human rights form increasingly the new universal values of the Finnish society.

112. Ervo, 'Förhållandet mellan Europadomstolen och nationella domstolar', *supra* note 86, at 417.

113. *Ibid.*

114. The same development applies to Denmark, where Amnesty membership numbers have grown in the new millennium from under 15 000 to over 80 000; in Sweden and Norway membership numbers are likewise around 50 000.

115. Merry, *Human Rights & Gender Violence*, *supra* note 6, at 85.

116. For three central scholarly contributions on the effects of the war on terrorism, see 'Agora: Military Commissions' 96 *American Journal of International Law* 2 (2002) 320–364; 'Symposium: Lovtålt mot terror' 2 *Mennesker & Rettigheter: Nordisk Tidsskrift for Menneskerettigheter* (2002); 'Symposium: A War against Terrorism: What Role for International Law? US and European Perspectives' 14 *European Journal of International Law* 2, (2003) 209–379. On the impact of the US hegemonic position on the foundations of international law, see Michael Byers and Georg Nolte (eds), *United States Hegemony and the Foundations of International Law* (Cambridge University Press: Cambridge, 2003).