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

Miia Halme*

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. 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. The article observes how the human rights discourse has moved from the periphery of the Finnish society to

* PhD Social Anthropology, LLM Public International Law, Research Fellow, Eric Castrén Institute and the Centre of Excellence in Global Governance Research. This article is based on Chapter 2 of my PhD 'Human Rights in Action' (Helsinki University Press, 2008). Many thanks to Anna Stengell for research assistance.

1. From heroes 'the Universal Declaration'.

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, constrained 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 in the establishment of the dawning human rights regime, simultaneously demonstrating how the relationship of the Soviet Union and the new regime was distanced from the outcast. 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. Despite abundant scholarship, significant differences exist on how the events


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 francaise pour la defense 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

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 articfts is discussed rather than 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 organized 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 francaise: it was effectively destroyed during World War II


as its members became dispersed, many emigrating to the US. There the League 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 focusing 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 1776 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 Morink 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


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 35-30. No other country enjoyed similar representation.


29. Wilkie, In Defense of American Liberties, supra note 22; Correll, Roger Nock Baldwin and the 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
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. 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. However, it should be noted that after this active start, the relationship of the US and the human rights regime soon became distrustful, 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. This policy of ‘double standards’ continues to arouse criticism along with the heavy reservations that accompany US ratifications of human rights treaties.

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. 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. 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. 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.

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 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. 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.

---


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


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. 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. 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. 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 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 nationalist 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 nationalist 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 disrupted 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 1941–1944.46

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 Martti Kvinge, A Brief History of Finland (Ottawa: Helsinki, 1987).
46. To avoid occupation, Finland allied itself with Germany, a matter that still causes discomfort for the Finnish population. See Tuomo Pulkkivi, Between East and West. Finland in International Politics, 1944–1947 (University of Minnesota Press: Minneapolis, 1980). In standard school books, for example, the matter is devoted only fleeting and ambiguous attention. The war 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. 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 "Finlandisation." 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 Rasi — 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.

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

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, Ulpopolitiikka ja Ihmisoikeudet, supra note 47, at 63; translation by author.
51. Finland's activism as well as the pro-EU sentiment of many prominent Finnish politicians have led some sardonic Finnish journalists to cite it as the EU's "made pup. 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.
early 1990s, construed as being influenced by Finland's relationship with the Soviet Union. 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 judgments 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.53 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.54 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 I saw and heard too much of them, because they were the centre of opposition to our ideas'.55 However, as was already mentioned, the Soviet Union was not alone in such a strained 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'56 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.57

During the Cold War the Soviet Union, despite refraining from voting, seized upon opportunities to utilize the human rights discourse to highlight US racial policies - 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. The US retaliated by focusing on forced labour in the Soviet Union, calling it an institutionalized form of slavery - a charge initially raised by Britain.58 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.59 Through their ongoing protest, the Soviets gained themselves a reputation for obstruction,60 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'.61

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 procedures outlined by the treaty.62 In scholarship Nordic countries are commonly construed as progressive regarding the human rights discourse,63 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.64 These positions were followed by others, establishing a tradition of individual Nordic ratifications 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 Siipila, who later became the first female Assistant Secretary

53. Luoto, Uhpoleittikko ja ilmavärähdet, supra note 47, at 63-65.
57. Ibid., at 322.
63. Sellsas, 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.
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. 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.

Finland participated also in the collaboration between the Nordic countries by joining the Nordic Council in 1956. 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 1973, and the Institute for Human Rights was founded in Åbo Akademi in 1986. 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 1985, and in 1987 the Norwegian Institute for Human Rights was founded. In Sweden the Raoul Wallenberg Institute of Human Rights and Humanitarian Law was founded in 1984. In addition, increasing research interest in human rights in the Nordic countries was reflected in the founding of the Nordic Journal of Human Rights (Mennesker & Rettigheter) in 1982. 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. 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 as a worldwide comparison of civil and political rights.

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. 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. On the other were the more influential left-wing groups from social democrats to communists – the group taistelijat obtaining the highest profile – harbouring close sympathies to the Soviet Union. Most of these groups viewed the human rights discourse as anti-Soviet propaganda perpetrators by the US, and consequently opposed any reference to it. Thus, despite treaty ratifications, at


71. Finnish League for Human Rights: <www.tiimitoimintatiedot.fi/tiimituorointeet> (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 resumed again as the human rights movement started to gain momentum.


75. Th e Raoul Wallenberg Institute of Human Rights and Humanitarian Law. <www.rwi.lu.se/institute/abouirwi.html>, 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-in/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/departmen/
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 focused 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 personal 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


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


86. Mari Pelkonpää, 'Euroopan neuvoston ihmisoikeusten osuus pitkäaikaisessa, oikeusministeriön laatimissäntöjen julkaisu 21' (Helsinki, 1988) 313-318; Heikki Savolainen, 'Asiatiedestyystyömaa' (Hakupulo 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 trunk, 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, Slovenia, Slovakia, Moldova, Georgia, Czech Republic, Croatia, Bosnia & Herzegovina and Armenia.

87. Many thanks to Mari Pelkonpää for clarification on this point. See also Laura Eeva, Tiedekunnan ja etuvastuunen 2006, p. 95.

88. Ibid., at 415.


as well as all the Baltic countries.97 By the end of the decade the Covenant had 50 new ratifications, making that decade almost as active in ratifications as the 1970s.98 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.99

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 Hilden and Ilkka Sarviva 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’.100 The reference to fundamental rights introduces an alternative discourse of perusvteidet, 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 Hilden 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. The same findings apply to an introduction to Finnish public law from 1982, which likewise includes no mention of the human rights discourse.101

In the Finnish context, the two discourses, that of human rights (ihmisvteidet) and ‘fundamental rights’ (perusvteidet), have 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 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.102 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.103 Combined, these developments have been construed to mark the end of the closed Finnish legal culture.104

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 Tiimoja between the period 1999-2006, 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.105 This emphasis was strengthened in Finland’s 2004

97. Martin Scheinin, Asiamittoisypyrsmoitoon (Hakupain Oy: Helsinki, 1988) at 2. See also the Constitutional Law Committee Statement 12/1982; Martin Scheinin, Ihmisvteiden Suomen oikeudet (Suomalainen lakimiesyhteis: Helsinki 1991); Tiimoja Ojaanen, Perusvteidet ja ihmisvteidet Suomessa (Forum lusko: Helsinki, 2003); Tiimoja Ojaanen and Arto Hispea (eds), EU-ohdeen perusvetus (Edita: Helsinki, 2006).
98. Hilden and Sarviva, Vteidenperusvteidet (Helsinki, 1995) 87, 273; translation by author.
101. Tiimoja Ojaanen became Foreign Minister in February 2000, following the election of the former Foreign Minister Tarja Halonen as president. In 1999 Tiimoja was the Minister of Commerce and Industry.
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. 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, Finn Church Aid and the Finnish UN Association, which works in collaboration with the Finnish Ministry of Foreign Affairs. 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 organisation’. The program received funding both from national ministries and the EU, as well as such prominent international funders as the Ford foundation.

The manner in which the human rights discourse has permeated Finnish policy-making is also reflected in the educational reforms of the new millennium. 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 functioning of foreign affairs as well as others in leadership positions in the government. 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. 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.

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 began 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

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, 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. 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 Court, 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.

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. Finland's high status in the human rights phenomenon was reflected in its election to the newly formed Human Rights 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', 110 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, 111 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.

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.