

Better Without an Articulated Foundation: The Eurocentrism of the International Human Rights Regime and the Universal Declaration of Human Rights

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Abstract

As long as the international human rights regime has existed, there has been contention around whether this regime needs to be supported by an articulated foundation to be as effective as possible in protecting the human rights of all individuals. Focusing particularly on the criticism that the regime is Eurocentric in nature, this article challenges traditional foundationalist arguments in contending that the regime's central document, the *Universal Declaration of Human Rights*, benefits from its exclusion of an articulated foundation because it creates avenues for non-Western peoples to assign a foundation to the document that fits within the framework of their own cultures. Through an exploration of the secular and religious origins of this regime and the epistemology of the human rights which inhabit it, I affirm that its foundation is Eurocentric in nature. Despite this, I posit that the human rights identified in the *Universal Declaration of Human Rights* are still worth protecting because, at their core, they aim to ensure the well-being of *all* individuals. Working off this premise, I conclude that an articulated foundation only serves to alienate members of the Global South and is thus appropriately excluded from the *Universal Declaration of Human Rights*.

Keywords: Universal Human Rights, Universal Declaration of Human Rights, Foundations of Human Rights, Eurocentrism, United Nations

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Introduction

The twentieth century saw the international system experience a series of unprecedented developments which fundamentally changed the way states interact with each other and their citizens. Among the most significant of these developments was the establishment of an international human rights regime. Following the horrors of World War Two, this regime was codified when the United Nations (UN) ratified the *Universal Declaration of Human Rights (UDHR)* in 1948 (Munoz 2017, 171). As a part of the International Bill of Rights, the *UDHR* remains a crucial part of the bedrock supporting the current human rights regime (Morsink 1999, xi). Despite considerable growth in the recognition of its authority, this regime still faces many challenges (Donnelly 1982, 869-98). Among these, a debate has arisen around the need for an articulated foundation to support this regime. Those who advocate for a conceptualization of human rights that includes a foundation do so primarily because they believe a foundation strengthens the overall legitimacy of the regime while allowing for a better platform from which to decide what should be considered a human right beyond what is contained in the *UDHR*. A foundation, the general argument goes, further entrenches human rights into the international system (Granik 2013, 17).

This argument comes in many specific forms, but Maria Granik, in her efforts to “defend the need for meaningful dialogue about the foundations of human rights,” offers two claims criticizing anti-foundationalist opinions which generally reflect the core of foundationalism, “First, the motivation to defend and implement human rights is often tied to a rational understanding of why these rights are worthy of protection. Second, rejecting the search for rational foundations can itself lead to ideological problems, even if this search cannot ultimately succeed” (Ibid., 1). Using Granik’s claims as a reference point, I argue that the *UDHR* benefits from its exclusion of an articulated foundation for human rights because it allows for non-Western people to assign their own conceptual foundation to the document, making it more legitimate in terms of versatility and

universal acceptability. Relatedly, criticism of the current human rights regime typically comes in two forms, religious Eurocentrism and secular Eurocentrism. This arises from the fact that “there was a fusion of ... two very different cosmopolitan traditions in the development of the *UDHR*, one from a liberal Enlightenment tradition and another from a conservative Christian rights-based tradition” (Taylor 2020, 185). In this light, I begin with a general exploration of the foundationalist argument for human rights along with the origins and status of the current regime. This is followed by an exploration of the Catholic/Christian origins of the regime and the ways this origin would affect an articulated foundation for the regime. Next, I explore the liberal democratic foundations for the regime and how it defaults to the concept of human dignity, which itself has strong Christian connotations, making it Eurocentric both secularly *and* religiously. I conclude by bringing the different threads of my argument together to articulate the concrete benefits of the *UDHR* lacking an articulated foundation for human rights. Because Granik’s claims are central to my analysis, it is important to emphasize that the explicit purpose of her article is to defend the need for a *dialogue* around a foundation for human rights. This said, however, the two cited claims embody the core of most foundationalist arguments.

The International Human Rights Regime, Foundationalism, and the Epistemology of Human Rights

Ultimately, the current international human rights regime only possesses legitimacy to the extent that an institution embodying it can ensure its proliferation while attempting to prevent the violation of the rights it encompasses. After all, as Jeremy Waldron argues, “The legitimacy of a statute derives from the constitutional norms that empower a given legislature and lay down the basic procedures for enactment” (2013, 14). In terms of the human rights regime, the *UDHR* is the ‘statute’, and the UN is the ‘legislature.’ Since “the stronger the role that international institutions play in policymaking, the stronger the demands for their legitimacy that can be expected to

arise” (Zurn and Stephen 2010, 91), it is crucial that acceptance of the human rights regime in most states be at a level which allows for the relevant bodies of the UN to further solidify the regime’s credibility. Acceptance of this regime is quite varied across the world, with recognition typically being the most tenuous in the Global South, so it is important that its underpinning document, the *UDHR*, be as universal as possible to increase its appeal across cultural/social divides.

It is primarily at this divide between different cultures/ways of life that foundationalists locate the importance of an articulated foundation for human rights, for they believe providing a foundation for human rights enhances their legitimacy because it provides a moral grounding to justify their protection from (Beitz 2013, 259-62; Waldron 2013, 1; Donnelly 1982, 303-06). Most forms of this argument, however, ignore how a foundation for human rights means very little to people who are unable to understand or relate to that foundation on an epistemological level. Granik’s second claim points to a similar justification, arguing that having “recourse to foundationalist language can help solidify ... commitment to [the] human rights values” advocated for by the international community (2013, 4). While this appears logical on the surface, it ignores that these rights are grounded in a distinctly Western historical, religious, cultural, and political context because they were conceived out of, and meant to satisfy, this very context.

Since the Eurocentricity of the human rights regime was first identified, foundationalists have shifted from a foundation located within the ‘sacredness’ of human beings, a Christian idea, to one characterized by the (apparently) secular idea of human dignity (Cranston 1983, 2-8; Beitz 2013, 259-61). While the regime has rarely been formally defended using a blatantly Christian foundation, Christian foundationalism had significant influence on the build-up to the *UDHR* and still holds much sway within many Christian-dominated communities, so it is important to address. Not to mention, Enlightenment thinking came out of a heavily Christian context and is,

therefore, a vital precursor to all secular Western thinking. Further, an articulated foundation in the *UDHR* would have likely been, at the very least, partially grounded in Christian ideals since the language used strongly resembles that of the French and American revolutions which were undeniably born from Christian values. Regardless, a belief in a secular foundation for human rights is dominant among foundationalists and has been taken up by prolific scholars like Jack Donnelly, Charles Beitz, and Jeremy Waldron. This foundation is firmly grounded in the idea that all humans possess a unique quality worthy of respect and protection called dignity (Beitz 2013; Waldron 2013; Donnelly 1982).

Before moving on to an exploration of the Eurocentric aspects of the foundation of the current human rights regime, I would like to consider the epistemology of the international human rights regime. One cannot use the word ‘Eurocentrism’ without thinking of the decolonial and developmental project that popularized it, primarily through the writing of Samir Amin (2010). As Eurocentrism “is an ideology expressly designed ... to deny the global division between center and periphery by proposing a single line of cultural development” (Foster 2011), the importance of epistemological considerations when looking at something as substantial as human rights becomes clear. To claim that the current human rights regime is Eurocentric is to accuse its proliferators of believing that there is only one kind of knowledge about human rights possible and only one way to get there: through the liberal democratic and Christian historical progression experienced by Europe. As Fernanda Bragato has identified, a large aspect of the current regime is based primarily on non-discrimination of “color, race, ethnicity, sexual orientation or political affiliation, nationality, gender, physical or mental condition, etc.” (2013, 53). This is dubious because this “discrimination ... can only be understood when one perceives ... coloniality as constitutive of modernity” (Ibid.). For one to accept this premise on an epistemological level, therefore, they would have to believe that

colonization was, at the very least, necessary which is insidiously malevolent to anyone in the Global South.

This does not necessarily mean that the human rights espoused by the current regime are not worthy of protection or that they can never be embraced in the Global South. Instead, this points to a “need to take seriously the epistemic force of local stories and to think ... through political *praxis* of subaltern groups” (Ibid.). By doing so, academics throughout the Global South may be able to uncover justifications for the current human rights regime that connect directly back to their own cultural/historical context, whatever that might be. It does not necessarily matter that these rights are not *actually* grounded in this context historically, it only matters that they can (potentially) be made sense of using the values of whichever non-Western context. If the *UDHR* were to definitively articulate a foundation for the human rights it includes, this would effectively cancel out any chance that the regime could be understood from any epistemological perspective other than those of the West. When we consider this with Granik’s first claim that “the motivation to defend and implement human rights is often tied to a rational understanding of why these rights are worthy of protection” (2013, 1), it would be impossible for non-Western individuals to understand why these rights are worthy of protection if they were articulated as being inseparable from their European origins.

Besides approaches which do not regard human rights as universal, and thus not of direct interest to this article, such as political approaches (Cruft, Matthew Liao, and Renzo 2015; Campos 2022) and positivist approaches (Hart 1958; Invernizzi-Accetti 2018), alternative accounts of a foundation for universal human rights that are not grounded in a Western Christian context undeniably exist (Naiem 1984; Afshari 2007; Şentürk 2012; Saghaye-Biria 2018; Zahid 2019; Mende 2021). The traditions from which these accounts emerge, however, would have had only minimal involvement in the establishment of the *UDHR*, on which the current international human rights regime is based, and thus would not have been considered in relation to an articulated foundation within the

document. While part of section five briefly explores an alternative basis for universal human rights on which non-Western individuals could potentially justify the current human rights regime, this article is primarily concerned with the foundations of the human rights regime as a product of the *UDHR* which underpins it and the UN which 'legislates' over it. As a result, alternative accounts are of little consequence here. With this said, some scholars argue that these alternative accounts had an effect on the *UDHR* because "the institutionalization of human rights was ... pluralistic and global" in how "Colonized states, states from the Global South... and a variety of individual diplomats, philosophers, activists, civil society organizations, and nongovernmental organizations ... actively participated in the fora, discussions, and conferences that founded and established the contemporary human rights regime" (Mende 2021, 42). On this point, the next two sections will further establish the origins of the current international human rights regime as undeniably Western/Eurocentric but will also explore how this fact does not disqualify the regime from being *justified* in alternative cultural contexts, i.e., separated from its Western origins.

Religious Eurocentrism: Christian Foundations of the Current International Human Rights Regime

During the drafting of the *UDHR*, some of its drafters made sure to avoid *distinctly* religious language in the articulation of the rights it included. Notably, this determination to avoid religious language in the document was likely a contributing factor to the absence of an articulated foundation in the final product as including one would have inevitably required the use of at least some religious language (Morsink 1999, 284-90). That said, the *UDHR* was still being written to satisfy a UN heavily skewed towards Western values and this is clearly reflected in the finished document. As Christianity had overwhelmingly been dominant in the West as the *UDHR* was being drafted (Taylor 2020, 10-12, 20-21, 47-55), any articulated foundation for human rights in the *UDHR* would have thus had Christian biases. Further increasing

this likelihood, it was primarily the relatively small cohort of drafters who represented states in the Global South, led by the Lebanese representative, Charles Malik, who ensured the document, especially Article 1, did not contain anything directly referring to God (Morsink 1999, 284-89). If it were not for these efforts, the *UDHR* would likely have been distinctly Christian because any explicit mention of God would serve to *inseparably* ground the rights it contains within its Christian origins.

While Christianity may have a millennia-long history, everything leading up to the twentieth century is better understood as a rich “prehistory of [current] human rights ideas” (Taylor 2020, 11). While the Christian ideas resembling human rights preceding the twentieth century are somewhat different than those found in the *UDHR*, they were an essential aspect of the European historical context which culminated in the human rights regime we have today (Ibid.). As identified by Leonard Taylor, human rights-based *language* originally appeared outside of the Catholic Church during the Enlightenment, with the Church initially rejecting this language (Ibid., 10-12). Regardless of the Church’s disdain, the ideas being expanded upon at the time were still firmly grounded and born from traditionally Christian ideas and values (Ibid.). It was not until the twentieth century, however, that the Church rose to “prominence in the sphere of human rights” (Ibid., 11). Developing out of the first World War, a form of “Catholic moral theology” introduced and articulated by Popes Pius XI and XII had massive influence on what would eventually become the international human rights regime we see today (Beitz 2013, 264-65). Attempting to make right the Church’s initial rejection of rights-based language in the face of the atrocities of unprecedented destruction and death, these pontiffs insisted that “the language of human rights and human dignity ... existed [as] a long-standing tradition in Catholicism” (Taylor 2020, 58). This moral theology on human rights offered a good middle ground for Western individuals who found themselves stuck between “an individualist secular liberalism” on one hand and “authoritarian corporatism and atheistic

communism” on the other (Beitz 2013, 264-65). As neither alternative was suitable for Europe’s declining but still significant Christian population amid the horrors surrounding them, these individuals opted for the “conception of the ‘dignity of the human person’ as a value opposed” being offered by the Church’s moral theology (Taylor 2020, 58).

Coming out of the Second World War and the success of the Church’s entrance into human rights dialogue, a draft declaration of human rights coordinated by the National Catholic Welfare Conference was one of the fundamental texts referenced by the UN Commission in the creation of the *UDHR* (Ibid.). Further, the conference was “regularly present, *among other Catholic organizations*, at the UN Commission with non-governmental organization consultation status” (Ibid., 59; my italics). Regardless of the success of some of the drafters in ensuring the *UDHR*’s language was not directly draped in Christian/Catholic rhetoric, the Church still had a significant influence on its drafting process. While it is undeniable that the Church did not invent “human rights or human dignity[,] ... it certainly gave these ideas ... [their] formative language and concepts” (Ibid., 66). The link between what the *UDHR* establishes as human rights and those espoused by the Catholic church in the first half of the twentieth century is quite solid and thus creates many issues in terms of trying to universalize these rights.

As the Church was one of the most significant and consistent Western actors complicit in colonialism across the Global South and North America, “This reality [has] left the Catholic Church with a significant post-colonial legacy” that has never been wiped clean (Ibid., 123). In light of this, it is logical to assume that most formerly colonized states would have greater opposition to any human rights regime which was *written* to be *explicitly* entrenched in the religion and culture that oppressed and brutalized them than one that was not. When considered against this, Granik’s first claim that “the motivation to defend and implement human rights is often tied to a rational understanding of why these rights are worthy of protection” (Granik

2013, 1) becomes tenuous at best. How can any rational understanding be attained about human rights by individuals who not only exist outside of the foreign spiritual framework it is partially grounded in but are also much more likely to be adversarial to it than not because of the horrors its predecessors had inflicted? As hinted at earlier, however, this Christian foundation to the current human rights regime was constructed parallel to and in tandem with the ‘secular’ ideas that came out of the Enlightenment.

Secular Eurocentrism: Human Dignity as the Foundation of the Current International Human Rights Regime

An important distinction must be made here. My analysis of the Eurocentric aspects of the current human rights regime did not begin with religious Eurocentrism because it was more influential than the secular aspects during the *UDHR*'s drafting, for it was not. I did so because Catholicism/Christianity dominated every aspect of European life until Enlightenment thinkers came out “against the existence, or at least the supremacy, of ecclesiastical authority” which eventually led to the *partial* separation of church and state (Domínguez 2017, 277). Of particular importance here, most Enlightenment thinkers “were not aimed at putting an end to religion, but rather aspired to reform churches and beliefs so that they ceased to be an obstacle to political stability, social harmony, economic growth and intellectual development” (Ibid., 275). It is not that the Enlightenment and its liberal thought resulted in the destruction of theology in Europe but that it indicated the end of Christianity dominating every aspect of an individual's life; after all, “most of the enlightened still retained a belief in God, even if they were hostile to the Church” (Barnett 2018, 2).

Importantly, while Enlightened thought may have pushed Western society in a more secular direction, it only did so through ideas and concepts which, while themselves rejecting Christian hegemony, were inherently grounded in a context defined by this same Christian hegemony. Since “human rights notions were seen as being [formally] derived from the Enlightenment tradition” (Renteln 2013, 79), it is

important to establish this inherent and causal relationship between Christianity and the Enlightenment, so that the Christian foundations of the current international human rights regime are not discounted. This is especially important since it is most commonly believed that “the genesis and development of ... human rights ideas result from either English, French and American political struggles or European liberal thought ... [in which] its ideas of individual liberty and equality ... are the core of human rights” (Bragato 2013, 49). While the above assertion is quite likely to be true, it is still important to emphasize how these ideas came directly out of a context of Christian hegemony. As the liberal democratic nature of the current human rights regime is extensively documented (Bragato 2013; Bonnet 2015; Renteln 2013; Donnelly 1982), I will focus specifically on the concept of human dignity as the secular foundation for human rights.

Consensus on human dignity as the secular foundation for human rights was only tenuously reached in the 1980s as part of an effort to stave off the newly popularized critique of the international human rights regime as Eurocentric typically referred to as cultural relativism (Donnelly 1982, 303-15), it is difficult to know if this concept would have been a part of an articulated secular foundation in 1948. This is especially so since, as one may recall, it was a concept also called ‘human dignity’ that Popes Pius XI and XII advocated for as they preached a religious form of human rights throughout the first half of the twentieth century. As a result of this, any secular articulation of human dignity as the foundation for human rights has had to first secularize the concept by secularizing the concept gives it meaning in the first place, sacredness (Dworkin 1994, 68-101, 179-240). It is curious that, in the search for a secular foundation for human rights, scholars reverted back to a concept with strong Christian origins which only adds credibility to the assertion that the liberal values driving this secularizing effort were themselves inseparably grounded in a Christian context. This potentially becomes easier to bear in a post-colonial sense, however, when it is acknowledged that human dignity was only introduced as a piece of Catholic human rights rhetoric *by* Popes Pius

XI and XII in the 1920s as “a weapon against persecution by totalitarian and other regimes, and in condemnation of war crimes” (Taylor 1999, 221).

Nonetheless, central to the conceptualization of human dignity as a foundation for human rights is the assertion that there is a dignity uniquely possessed by human beings that is ‘sacred’ in a way that separates them from all other beings (Dworkin 1994, 25, 73-80). To Ronald Dworkin and other secular foundationalists, “Something is sacred or *inviolable* when its deliberate destruction would dishonor what ought to be honored” (Ibid., 74). This, however, presents a conundrum that is difficult to solve. How does one decide whether something is worthy of being honoured, to begin with? When the Piuses were advocating for grounding human rights in human dignity, its sacredness, in the Dworkinian sense, was derived directly out of human’s connection to God (Taylor 1999, 57-59). Dworkin tries to remedy this by asserting that sacredness can also be ascribed as a cultural value which then becomes instinctual (1994, 25), but, as pointed out by Ari Kohen, “the idea of secular sacredness ... cannot be made sense of” because there is nowhere concrete for its honouring to be derived from (Kohen 2007, 84). Notably, Kohen goes on to argue that human dignity can still serve as a secular foundation for human rights because it should not be synonymous with sacredness and should instead be understood as it is already used in the International Bill of Rights, of which the *UDHR* is the foundation (Ibid.). While this suggestion set up an interesting philosophical exercise, it is ultimately meaningless because there is nothing in the International Bill of Rights that separates dignity from the idea of sacredness in the way Kohen suggests. As this section has attempted to show, the secular foundation for the current human rights regime is doubly Eurocentric in how it is embedded in the liberal democratic thought of the Enlightenment (Bragato 2013; Donnelly 1982; Renteln 2013) and depends on a concept that is inseparable from its religious origins, making the regime simultaneously both secularly and religiously Eurocentric.

Argument and Discussion: Undeniably Eurocentric but Separably-So in the Absence of a Foundation of Human Rights

Clearly, the two intertwined foundations for the current international human rights regime (and the *UDHR*) are undeniably Western/European, but why is this so bad in terms of the legitimacy, acceptance, and universality of this regime/document? The answer to this question lies in the distinction between something simply being European and something being Eurocentric. On the one hand, to call something European is to merely identify the territorial, cultural, historical, and political context it emerged from or as a part of. On the other hand, to call something Eurocentric does not just identify it in all the same ways but also recalls the atrocious events of European colonialism. This distinction then begs the question of why the regime is accused of being Eurocentric instead of simply being identified as European? The answer to this lies in the fact that the human rights espoused in the current human rights regime (and the *UDHR*) are directly born out of the “individualist secular liberalism” (Beitz 2013, 264-65) and Christian rhetoric that had been used to justify colonialism in the first place. It would not be ridiculous to assert that the only major difference between what was being espoused during the most brutal years of colonialism and that which is advocated for as part of the current human rights regime is that people of color are now considered ‘fully human.’ As has been said here to the point of redundancy, the rights within the current regime were formalized during the Enlightenment and therefore were present during most of European colonialism. For those of the Global South, it is understandable that many would not be willing to accept anything as a protective framework that was unable to prevent the complete dehumanization of millions of individuals in the past, including themselves.

Many critiques of the attempts to universalize the human rights regime come in the form of cultural relativism which most notably posits “that no transboundary legal or moral standards exist against which human rights practices may be judged acceptable or unacceptable” (Tesón 1985, 870-71), but I believe this is indicative of

a different, larger concern. While the specific foundational context of the human rights in the *UDHR* is undeniably European, most if not all of these rights can be understood on a basic level as attempts to secure freedom from pain and subjugation for all human beings, even if some disagree on the authenticity, effectiveness, or necessity of the specific rights. To put it another way, the end goal of the human rights regime and the documents which establish/support it are relatively obvious to anyone from any culture whether or not they disagree with individual rights which aim for these ends. With that said, however, the questioning of the ‘authenticity’ of these rights (especially when they are being espoused by Western institutions) is quite rational. The West, both in its religious and secular forms, has always historically been brutal and selfish to the Global South under the guise of good intentions, so it is only logical that any human rights regime advocated for by the West would be met with significant skepticism.

As the foundation for the human rights of the *UDHR* is epistemologically grounded in ideas of non-discrimination that are unique to the Western historical context (Bragato 2013, 53), the articulation of this foundation in the *UDHR* would have effectively made its rights unintelligible for those of the Global South because these rights would become inseparable from the context that systematically oppressed these societies. By excluding an articulated foundation in the *UDHR*, the rights it espouses can potentially be separated from their Eurocentric origins over time *if* an alternative context can be found to justify them from within other non-Western cultures. Further, this lack of an articulated foundation allows room for the regime to become more universal by separating the idea of ‘justification for’ from the idea of a ‘foundation for.’ The objective foundations for things are typically set in stone, but justifications can come from anywhere at any time if they make logical sense within any given culture.

Before this article concludes, it is beneficial to briefly consider an alternative account of universal human rights which could serve as a justification for the current regime for non-Western individuals. One

of the more prominent arguments around alternative accounts is that a foundation can be found within Islam. While an Islamic foundation for human rights shares some similarities with the Christian foundation articulated above, it is instead built upon “Islamic philosophical principles [in which the] doctrine of the dignity of man as God’s vice regent on earth” is based on the belief “in *the* One God and ... His exclusive possession of sovereignty” (Saghaye-Biria 2018, 60; author’s italics). With this said, Abdullahi Ahmed El Naim explains how “certain aspects of Shari’a, traditional Islamic law, are inconsistent with some universal human rights ... [but argues that] Islam itself can be consistent with and conducive to the achievement of ... the present universal standards, ... namely [through] the realization of the originality and individuality of each and every person” (1984, 75). Interestingly, Saghaye-Biria has identified “the bedrock of Islamic human rights” as being articulated well by Article 2c of the constitution of the repressive Islamic Republic of Iran (2018, 60) which states that human rights are founded upon “the rejection of all forms of oppression, both the infliction and the endurance of it, and of dominance, both its imposition and its acceptance” (1979), of which the majority of the *UDHR* can be seen as attempting to accomplish. As roughly twenty-five percent of the world’s population follow Islam, framing the *UDHR* in the context of this alternative account could be particularly useful in creating further acceptance of the current international human rights regime.

Conclusion

In defense of the discussion around an articulated foundation for human rights, Granik offers two claims: “First, the motivation to defend and implement human rights is often tied to a rational understanding of why these rights are worthy of protection. Second, rejecting the search for rational foundations can itself lead to ideological problems, even if this search cannot ultimately succeed” (Granik 2013, 1). Unfortunately, both claims display a fundamental misunderstanding of why human rights are opposed by many in the

Global South in the first place. If a foundation were articulated in the *UDHR*, individuals from the Global South would never be able to rationally understand any of the rights it includes because that 'rationality' would be inseparably grounded in a history of their own oppression. Further, contrary to Granik's second claim, an articulated foundation would, in and of itself, be an ideological problem for those in the Global South for the same reason it would not be rational to them, it directly recalls their mass and unjust subjugation. Leaving the *UDHR* foundationless allows for the regime it supports to be understood in a manner best suited to each state and individual, even if this will likely take time to be realized.

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