

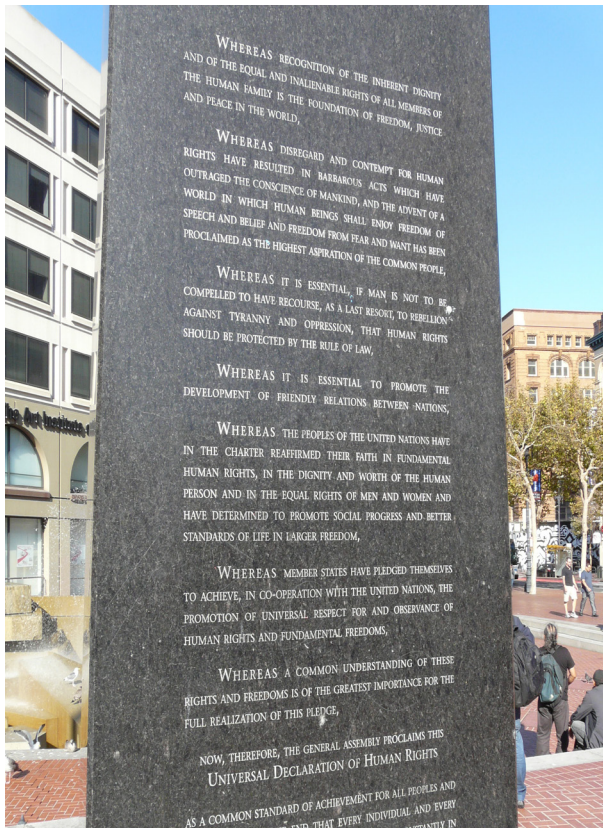


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Human Rights: Advancing the Frontier of Emancipation

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Amidst bleak prognostications about the future, the human rights movement offers a beacon of hope for securing a livable world. The movement's universality, supranationalism, and expanding emancipatory potential serve as inspiration and guide for the larger project of global transformation. The sweeping vision embodied in the 1948 Universal Declaration of Human Rights has experienced constant renewal and steadfast legitimacy in the tumultuous postwar world. It has been a foundation for the pursuit of supranational governance and an antidote to the notion that the ends justify the means. The human rights movement, despite its imperfections, has a key role to play in the transformational change in human values crucial to building a just, flourishing future.



The human rights movement offers a story of resilience and expansion in the face of relentless setbacks.

Four Pillars

The coming decades will be critical for steering the global trajectory toward a just and sustainable world. Such an outcome will require a multifaceted global movement capable of driving transformative change in culture and institutions. Although this kind of movement does not yet exist, we can see it stirring in the efforts of myriad activists and organizations fighting for a better world and the ideas that inspire them to take action.

As human rights ideas and campaigns have long been central vehicles for emancipation, the history and evolution of the human rights movement offers valuable insights into how such large-scale change might emerge in the coming decades. The idea of human rights has animated campaigns for women's rights; racial equality, including the opposition to apartheid; and the rights of minorities, such as the disabled and the LGBTQ community. Increasingly, human rights are inspiring demands for social and economic rights to food, water, and housing as well. People all over the world have demanded human rights and helped create human rights norms and law. Countries have ratified dozens of important international treaties, which, in turn, have become tools for activists to mobilize support for the protection and expansion of rights.

For four key reasons, the human rights movement is well-positioned to inspire systemic global action. First, the human rights framework is *universal*. Despite criticism that human rights are merely a Western invention, modern human rights doctrine has a global history and provides a global purchase for activists fighting for justice. The body of human rights norms and law constitutes a belief system to which people, regardless of geography, culture, or birthright, have contributed, and can subscribe. Second, the human rights framework is *supranational*, thereby underscoring the limitations of national sovereignty and the need for concerted global action for achieving justice. Third, the human rights framework is intrinsically *emancipatory*. Liberating human potential lies at the core of human rights. When the pioneering 1948 Universal Declaration of Human Rights (UDHR) speaks of freedom of speech and religion, and freedom from want and insecurity, it reflects a worldview in which blending the unique capacities of individuals into an interdependent whole lies at the heart of thriving societies. Last, the human rights framework is *expansive*. Our understanding of human rights has broadened over time and will continue to do so. The vision of human rights inspires individuals to fight for its realization—and to demand more in each generation.

Indeed, the story of the human rights movement is one of resilience and expansion in the face of relentless setbacks and threats to its emancipatory vision. Seventy years after the adoption of the UDHR, the human rights movement remains a vital actor for a decent world. Its perseverance and triumphs provide a beacon of hope for global movement-building in a moment of rising nationalism, geopolitical instability, and climate chaos.

Universal: A Global Heritage

The human rights vision has come under attack in recent years, derided as ineffective or illegitimate, the province of starry-eyed idealists and sanctimonious imperialists. Some scholars and activists have argued that it is a Western invention imposed on the countries of the Global South against their will. To the contrary, the shift from national to international protection of human rights was often championed by activists, diplomats, and jurists from the Global South—and resisted by those from the Global North.¹ These advocates played a pivotal role in advancing the vision of international protection of rights embedded in the UDHR and subsequent international agreements.

Although the intellectual origins of human rights can be traced to the natural law debates of the seventeenth century or even earlier, the concept fully burst onto the global stage in the late eighteenth century in the context of the American and French Revolutions, and the accompanying US Bill of Rights and French Declaration of the Rights of Man and of the Citizen. As the nation-state took root in the mid-nineteenth century and became the foundation for the international order, questions about the duties and limits of sovereign states in securing human rights for their citizens intensified.

International protection of human rights was championed by activists from the Global South.

These early demands for human rights focused on the national protection of individual rights, that is, the belief that a government should protect the rights of its citizens. But if a government not only failed to protect the rights of its citizens, but was also the main violator of such rights, these individuals had nowhere to turn. The possibility of the international protection of human rights as we now know it was presented for the first time in writing by the Chilean jurist Alejandro Álvarez in 1916, but in the interwar period, the doctrine of absolute sovereignty, in which every state had complete jurisdiction over what happened within its borders, held sway. In other words, it was nobody else's business if a government abused citizens' rights, while criticism of another state's treatment of its citizens was deemed an intervention in that state's internal affairs. This view of sovereignty began to change as World War II and the Holocaust revealed its deep moral flaws. All over the world, individuals began to speak out against the doctrine of absolute sovereignty.

The international protection of human rights through law began with the San Francisco Conference of 1945, where the UN Charter was drafted. Although human rights were part of the Allied war aims, as exemplified by Franklin D. Roosevelt's Four Freedoms Speech, the Big Four (the UK, the US, the USSR, and China) were in the main reluctant to lend their support to the legal protection of individual rights, fearing that such international law could be used to critique their own practices. The United Kingdom was still an empire, the US was racially segregated under Jim Crow, and the USSR under Stalin routinely repressed its citizens. Thus, when the Big Four met in Dumbarton Oaks in 1944 to draft a charter for the United Nations, they excluded all but one mention of human rights. Only China, the weakest of the four, had pressed

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for the inclusion of an explicit statement against racial discrimination in the draft UN Charter, but was rebuffed by the other three. Other Allied countries, however, came to the San Francisco Conference with explicit human rights agendas. Latin American countries, at the time democratic for the most part, even organized an extraordinary meeting at the Chapultepec Castle in Mexico City in February 1945—the Inter-American Conference on Problems of War and Peace—to formulate collective policy. Their joint commitment to human rights had a significant impact on the San Francisco Conference a few weeks later.

Also disappointed by the inattention to human rights in the Dumbarton Oaks draft were US civil society organizations, who had been encouraged by Roosevelt’s Four Freedoms Speech to believe that the war was being fought for freedom and rights. A key objective of the forty civil society groups that served as consultants to the US delegation at San Francisco (women’s organizations, religious organizations, labor groups, and academics) was to insert human rights in the UN Charter. These groups along with a number of small states eventually convinced the US to join in making human rights a major focus of the United Nations, although an exact *definition* of human rights remained elusive.

Most histories of the UDHR center on Eleanor Roosevelt, who chaired the new UN Human Rights Commission, and René Cassin, a French jurist and fellow member of the Commission. This focus is not so much inaccurate as incomplete. Others were also deeply involved in writing the UDHR, such as Charles Malik from Lebanon; Peng-chun Chang from China; and Hernán Santa Cruz from Chile, who worked to include economic, social, and cultural rights. Western-centric histories also neglect the influence of people like Bertha Lutz, a Brazilian biologist, feminist, and lawyer, and Hansa Mehta, an Indian delegate and independence activist, both of whom insisted that the UN Charter and the UDHR explicitly recognize the equal rights of women and men. The emergence of human rights norms in Latin America and other countries in the Global South further challenges the simple narrative that norms come from powerful states.

The tendency to attribute human rights ideology to the Global North may also stem from the fact that the Europeans were the first to create a regional human rights regime. From 1950 to 1953, Europe established the first overarching human rights treaty, the European Convention on Human Rights, and a regional human rights court, the European Court of Human Rights. Latin America, despite its early advocacy, did not draft the American Convention on Human Rights until 1959, and this treaty did not enter into force until 1978. Human rights had lost support from many Latin American governments as military coups toppled the democracies that had advocated for human rights at Chapultepec and San Francisco. Many of the coups and the anticommunist authoritarian regimes that followed were supported by the US government, which prioritized anticommunism and economic interests over the promotion of democracy. During the time of the military regimes, Latin America’s

African and Asian nations led the international anti-apartheid campaign.

contributions to the international protection of human rights were almost forgotten, even in the region.

Claims that human rights doctrine is Eurocentric also ignore the contributions by African and Asian countries during their struggles for decolonization. Much of Africa, Asia, and the Caribbean was still colonized in 1945 and thus did not participate in the San Francisco Conference. But some of the newly decolonized states in these regions took the lead in human rights advocacy in the context of campaigns for decolonization and against apartheid.

Many decolonization advocates believed that human rights violations stemmed from colonialism, and thus nations required a sovereign state to prevent human rights abuses. A sovereign state is still needed in the twenty-first century; today, the most vulnerable to human rights violations are the stateless of the world: refugees, migrants, and others. Yet a paradox persists: states are simultaneously the biggest protectors of rights and their biggest violators. A state is necessary but, as history demonstrates, utterly insufficient: some form of redress for human rights through international law and institutions must also have authority.

Alongside decolonization, African and Asian nations led what was perhaps the most important early and sustained international human rights struggle: the anti-apartheid campaign. As early as the 1940s, the African National Conference (ANC) explicitly embraced human rights as a fundamental goal of its struggle for racial justice. Anti-apartheid sentiment was also a major factor leading Asian and African leaders to spearhead passage of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1965. Two years later, the issue of apartheid pushed the UN Commission on Human Rights to create its first “special procedure,” the Ad Hoc Working Group on Southern Africa, which became the model for subsequent UN human rights investigations.

In the 1960s, Jamaica became another postcolonial leader for intensifying UN efforts on behalf of human rights. Among other initiatives, it pushed for the designation of the International Human Rights Year of 1968, an impetus for advancing various human rights projects, most importantly CERD. Jamaica and other states of the Global South stressed the need for enforcement mechanisms, leading to the creation of a special committee of independent experts on racial discrimination to receive state reports on compliance with the treaty. This “treaty body” became a precedent for all subsequent human rights treaties. Lebanon championed another institutional innovation—the right of individuals to petition to the treaty body—that would also reappear in later treaties.

Although Cold War tensions had blocked the drafting of two treaties—the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights—designed to convert the soft law of the UDHR into binding international commitments, Jamaica and its allies, building on the success of CERD, revitalized the process leading to draft treaties in 1966 and

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ratification in 1976. The leadership of the Global South was thus instrumental in creating mechanisms for institutional implementation and enforcement for the entire human rights treaty system.

Supranational: The Case for Global Governance

Like a growing number of global imperatives, the international protection of human rights requires a degree of supranationalism, that is, governance arrangements whereby states delegate some responsibility for decision-making to an institution that stands above the nation-state. The UN Charter, the UDHR, the CERD, and the many international human rights treaties that followed were instrumental in strengthening supranationalism, a critical underpinning for potential global movement-building in the twenty-first century. We are at a historical crossroads: resolving complex, transborder crises—climate change, human displacement, nuclear threats—in an interconnected world is simply incompatible with a narrow view of national sovereignty.

Human rights offer a powerful example of this proposition. Traditionally, absolute sovereignty gave the state complete and exclusive power within its jurisdiction. According to this view, how a government behaves towards its own citizens is not a valid international concern, even if said government violates citizens' rights. But other understandings of sovereignty are more supportive of human rights.

The doctrine of popular sovereignty stresses that sovereignty ultimately rests with the people of the country, not with the leaders. The people at all times have the inalienable right to alter or modify their form of government. A government cannot use sovereignty to justify human rights violations against citizens, since those citizens would then have grounds to revolt and to alter their form of government.

Another alternative understanding of sovereignty is what Stephen Krasner has called international legal sovereignty.² The ratification of human rights treaties is an exercise in international legal sovereignty, since only sovereign states can ratify treaties. In this sense, we can say that states used their international sovereignty to "invite" the process of international protection of human rights, through their drafting and their ratification of these human rights treaties, which in turn eroded their exclusive jurisdiction over all that occurs within borders. It is thus disingenuous for states to claim later that human rights doctrine violates their sovereignty when they had previously ratified treaties permitting—indeed, inviting—international supervision of their domestic human rights practices.

For example, when states ratify the UN Charter, they delegate certain decisions about international peace and security to the UN Security Council, and they accept Chapter VII of the Charter, which allows the Security Council to authorize intervention into a state's internal affairs. In its first five decades, the Security Council rarely opted to intervene in response to mass atrocity, but more recently, the UN Responsibility to Protect doctrine (R2P), adopted in 2005, permits the Security Council to consider intervention when a

A dramatic new trend toward holding individual state officials criminally accountable has emerged.

state engages in massive violations of human rights, as in the case of Libya. Popular sovereignty arguments are at the core of R2P, which sees sovereignty as creating the responsibility of the government to protect its citizens.

Under a doctrine like R2P, support for sovereignty and support for the international protection of human rights are not mutually exclusive. Most human rights activists and states from the Global South, however, are extremely cautious about using supranational military intervention as a means for the international protection of human rights. Nevertheless, supranational human rights institutions and doctrines of popular sovereignty offer a legitimate reference framework within which violations of human rights within the borders of a single nation, whether by a government or another party, can become subject to external parties seeking corrective action. A wide array of such interventions, both soft (reprimand and condemnation) and hard (military and judicial action), have occurred in recent decades in response to, for example, the Balkan Wars, Rwanda genocide, Syrian civil war, and the Rohingya refugee crisis.

More promising for the long-term protection of rights is the emergence of law and institutions creating individual criminal responsibility for mass atrocities. Prior to World War II, the reigning orthodoxy was the impunity model, which dictates that neither states nor state officials should be held accountable for past human rights violations. The impunity model relied on the doctrine wherein the state itself and its officials should remain indefinitely immune from prosecution in both domestic courts and foreign courts.

Since World War II, and in particular since the formation of the International Criminal Court (ICC) in 1998, a dramatic new trend in world politics toward holding individual state officials, including heads of state, criminally accountable for human rights violations has emerged.³ This is not to say that perfect justice has been done or will be done, or that most perpetrators of human rights violations, particularly among the state's most powerful actors, will be held criminally accountable. Rather, this "justice cascade" entails a shift in what is considered the legitimate norm of individual criminal accountability for human rights violations and an increase in criminal prosecutions reflecting that norm. The ICC, the European Court of Human Rights, the Inter-American Court of Human Rights, and the African Court of Human and Peoples' Rights show how supranational institutions can be critical underpinnings for a new movement for change in the twenty-first century.

Supranational developments in human rights are rooted in prior struggle by social movements and dedicated leaders. They are still relatively new and fragile and require support to continue expanding in the face of constant pushback from powerful nationalists and other counter forces. The evolution of human rights protection has produced a range of tools and institutions that provide a template

not only for its own future enrichment but also for any social movement that is intrinsically supranational in nature.

Emancipatory: Harmonizing Means and Ends

The twentieth century saw several other competing visions of emancipation, including nationalism, communism, and anticommunism. Many perceived these visions as more compelling than that of human rights, in part because they appeared to offer a more rapid and complete path to emancipation. Yet each at one time or another has led to mass atrocity because supporters of the great alternative utopias of the twentieth century were often prepared to sacrifice individual humans for some end they believed would lead ultimately to greater human emancipation. Nationalism, communism, and anticommunism all sought utopian ends—a great nation, a classless society, or liberty from totalitarianism—but each came to justify violent and abusive means to achieve those ends.

The human rights path to emancipation insists that the ends do not justify the means.

Nationalism often justified the exclusion and mistreatment of foreigners to promote the greatness of the nation; communism justified repression of the bourgeoisie or the ideologically misguided to create a classless society; and anticommunism justified military coups and repressive violence against not only communists but also any person with leftist affiliations. The ends justified the means of crushing political opponents, purges, disappearances, and executions.

Various types of authoritarian nationalist regimes justified mass killings, including the Holocaust, the Turkish genocide of the Armenians, and, more recently, the genocide in the Darfur region of Sudan to further nationalist and racist goals. The former USSR, China, and Cambodia under the Khmer Rouge used utopian communist visions of emancipation to justify atrocities that ranked among the worst of the twentieth century: the Stalinist purges and forced famines, the Great Leap Forward in China, and the genocide in Cambodia. Meanwhile, in response to communism, the US government and its supporters claimed that whatever means it took to end communist totalitarianism were necessary regardless of the human cost. This ideology brought to power many of the harshest dictatorships in the twentieth century, including that of General Rios Montt of Guatemala, General Videla in Argentina, General Pinochet of Chile, General Suharto of Indonesia, and President Marcos of the Philippines. Anticommunism also led the US to support a devastating war in Vietnam that cost the lives of millions of combatants and civilians.

Human rights doctrine stands in stark contrast to this history of repression and atrocity. The human rights path to emancipation insists that the ends do not justify the means; rather, the means are the ends. Since the objective for human rights activists is the full security of the individual, the only way to achieve that goal is to

US antiterrorist discourse strongly echoes anticommunist practices of dictatorial regimes in Latin America.

protect individual human rights at every step along the way. Human rights ideas make it difficult to justify the dehumanization of opponents in pursuit of distant goals.

During the height of the Cold War, the powerful discourses of nationalism, communism, and anticommunism diverted attention away from human rights principles. Only in the 1970s, in the context of repressive dictatorships in Latin America and elsewhere, did individuals rediscover the human rights vision that lay dormant. Out of disillusionment and desperation, people in countries such as Chile, Argentina, the Soviet Union, and South Africa turned to human rights as a foundation for efforts to find those who had disappeared, to protest executions, and to put a stop to arbitrary imprisonment. The Madres de la Plaza de Mayo in Argentina, for example, relied on human rights institutions and rhetoric in their search for children who were disappeared by the Argentine military government. In this case, the “disappeared” were kidnapped by state agents and taken to secret prisons where they were almost always tortured. Many of the disappeared were eventually killed, their bodies dropped sedated and alive from airplanes into the South Atlantic. Human rights reemerged in this setting as a tool for anguished friends and family searching for language, law, and institutions to help recover their loved ones. This transmuted into a deep belief in and commitment to human rights ideals and processes.

The twenty-first century has witnessed the rise of deadly new visions of emancipation: Islamic fundamentalism and Western antiterrorism. Islamic fundamentalism imagined emancipation through a world governed by Sharia law under a Muslim Caliph; antiterrorism aimed to emancipate society from the fear of violent terrorism. Both, however, shared a belief that the ends justified the means. This is the logic of ISIS—that the goal of a Caliphate justified beheadings and destruction of the Yazidi people. The antiterrorist response also accepted violent means to reach its goal.

Indeed, US antiterrorist discourse strongly echoes the anticommunist practices of dictatorial regimes in Latin America: both justify disappearing, torturing, and executing their opponents. The US government sometimes acts as if we entered a new era after the 9/11 terrorist attacks, but the similarity between antiterrorism and anticommunism reveals the opposite. Instead of discovering something new, we have been shown once again the dangers of a government that does not prioritize individual human dignity.

Human rights policy, belief, and law require of us a different approach. Human rights do not allow the ends to justify the means—because the means are also the ends. In other words, if the well-being and rights of individual humans are the ends we seek, clearly abusing those rights cannot be the means to that end. A commitment to human rights militates against dehumanization and atrocity because it insists that every human has the same rights, by virtue of being human.

The boundaries of rights have widened to include an ever-larger set of human entitlements.

Some have called human rights “minimalist” in the sense that they focus on procedural guarantees and the rule of law. Why would we see human rights as minimal? If a person had all the rights declared in the UDHR of 1948, not only would that person have protections of life, liberty, and security; freedom of thought and religion; and the right to participate in politics, but they would also have access to education, social security, work (and equal pay for equal work), freedom of movement, and a standard of living adequate for health and well-being, including food, clothing, housing, medical care, and necessary social services. They would have equal protection under the law and be protected against discrimination, and have a right to leisure, including paid vacations. These rights are themselves examples of human emancipation, and they provide the conditions and tools for future social movements to advance emancipation in the broadest sense. When human rights work, they work by supporting people’s aspirations and movements for rights, not by imposing rights from the outside. Human rights are not minimalist, but they are slower and more gradual, because they are the result of long and mainly peaceful struggles.

Expansive: Climbing the Ladder of Rights

Human rights are the most effective tools for emancipation that emerged during the twentieth century not only because the alternative visions have failed, but also because human rights norms contain the seeds of their own expansion. Indeed, the boundaries of human rights have widened over time to include an ever-larger set of human entitlements. Building on the broad construction of the UDHR, the human rights movement has gradually enlarged the definition of existing rights and added new rights to its purview. And it will continue to do so.

Non-discrimination, for example, has reached into new terrain through gay and transgender rights activism. Both the American Declaration of Rights and Duties of Man and the UDHR of 1948 had expansive views of human rights, including the right of all humans to dignity, non-discrimination, citizenship, due process, health, education, livelihood, and a host of other protections. Many specific rights, however, were not included in the UDHR, such as the rights of the disabled or LGBTQ individuals. When the UN Charter, the American Declaration, and the UDHR were drafted, nobody argued that people should be free from discrimination based on sexual orientation. Yet the seed for the protection of LGBTQ rights existed in those texts, because every human rights document has at its center the notion of non-discrimination. These documents prohibit discrimination based on “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Thus, human rights became the natural platform for campaigns concerning marriage equality and other LGBTQ rights. Indeed, the largest national lesbian, gay, bisexual, transgender, and queer civil rights organization in the US is called, simply, the Human Rights Campaign.

The human rights movement offers essential lessons for global movement-building in the twenty-first century.

This capacity to expand is key to the power of human rights as a tool for emancipation. Another instance of embracing new rights categories is the right to a salubrious environment, implied by the “health and well-being” provision of the UDHR, which is now widely recognized a universal norm by both government and civil society. In a similar vein, rights to a gainful livelihood and minimum guaranteed income are now embedded in human rights discourse.

No doubt, many challenges remain at the moving frontier of human rights. And there are many flaws to address in countries and movements that embrace human rights. Still, human rights give us tools to resolve such conflicts. This expansiveness points to the pivotal role of adaptation in a fast-changing world in which new knowledge, needs, and expectations constantly redefine the necessary and the possible. The cumulative and advancing boundary of human rights nurtures an insatiable hunger for further widening of the emancipatory struggles of the present and future.

Beyond the Human Rights Movement

The human rights movement offers essential lessons for global movement-building in the twenty-first century. Although systemic social transformation will not come quickly or easily, the attributes and experience of the twentieth-century rights movement can help illuminate the journey.

When discussing the precondition for creating social change, community organizer Saul Alinsky said that one needs a blend of anger, hope, and the belief that one can make a difference. Some see anger as the primordial emotion of justice. But while anger stimulates action, in the absence of hope and sense of efficacy, it can burn out quickly and lead to apathy. It is this delicate balance of grievance, vision, and sense that one’s actions matter that shapes the chronicle of human rights.

The contemporary drift toward a fortress world of wealth disparities, intolerance, and regressive nationalism signals a difficult struggle ahead to create a just and sustainable planet. The universal, supranational, emancipatory, and expansive character of human rights is poised to serve as a connective tissue binding disparate movements and awakening a global citizenry in a super-movement capable of accelerating a Great Transition.

Endnotes

1. See my latest book, *Evidence for Hope: Making Human Rights Work in the 21st Century* (Princeton, NJ: Princeton University Press, 2017).
2. Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton, NJ: Princeton University Press, 1999).
3. I discuss the emergence and effectiveness of such criminal accountability in my book, *The Justice Cascade: How Human Rights Prosecutions are Changing World Politics* (New York: W. W. Norton & Company, 2011).

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