

1

Changing Approaches to Interference in the Global South

The late 1970s and early 1980s were a time of major change in the practice of international interference. Prior to this time, leaders throughout the Global South had opposed any interference in their domestic affairs – even public comments from other governments – as an unacceptable violation of their sovereignty.¹ However, in these years, leaders in Latin America and Africa began to empower their regional organizations, the Organization of American States (OAS) and the Organization of African Unity (OAU), to enforce human rights in ways that involved interference and to speak of this regional enforcement as legitimate. Since then, regional organizations have become central to human rights enforcement, international intervention, and global governance.

What explains this change, and why did it not happen in other regions, namely the Middle East and Southeast Asia? I argue that the decision to accept international interference was part of a strategy by leaders in Latin America and Africa to establish their regional organizations as authorities over human rights, accepting interference within their regional organizations and asserting the authority of regional enforcement vis-à-vis other enforcers. They adopted this strategy in response to new forms of pressure that challenged their states' self-determination. These pressures did not arise in the Middle East or Southeast Asia, and as a result, leaders in those regions continued to reject all interference.

¹ I use the term “Global South” to refer to a group of states that share important features, including historically high levels of economic dependence and material weakness, a disadvantaged position in the global economy, late industrialization, low state capacity, and significant experiences with colonialism and imperialism. These states have identified and organized themselves as “Southern” states, including in groupings like the G77 and Non-Aligned Movement, as well as more broadly under the banner of “South–South Cooperation.” In spite of significant heterogeneity, these states pursued many of the same goals and self-consciously grouped themselves together.

For leaders in Latin America and Africa, insisting on non-interference and asserting regional authority over human rights were two different strategies for accomplishing the same goal of limiting the external imposition of rules and safeguarding self-determination. One strategy created a hard shell around the state, while the other created mechanisms for filtering and managing outside involvement and amplifying the region's influence over interference. Once the first strategy no longer worked, they switched to the second.

The decision to accept regional human rights enforcement was a significant change in state practice toward sovereignty and the norm of non-interference, as well as an important moment in the emergence of regional organizations as central to legitimate intervention. In Latin America, the “doctrine of non-intervention” had developed in response to European intervention in the nineteenth and early twentieth centuries and was adapted to the threat posed by the United States and “Yankee imperialism.” In Africa, the emphasis placed on non-interference and territorial integrity in the post-independence years led to accusations that the region was a “club of dictators.” In Southeast Asia, non-interference became a cornerstone of the “ASEAN way,” the set of norms and practices governing state behavior within the Association of Southeast Asian Nations (ASEAN). In the Middle East, states demanded respect for non-interference by external powers, while a regional order governed by strict respect for one another’s sovereignty *within* the region was consolidated between 1967 and 1973.

Because of historically high levels of material weakness and economic dependence, leaders throughout the Global South have benefited from norms and rules that prioritize legal equality over material power in inter-state relations.² Following formal decolonization, many saw their newly won sovereignty as undermined by great power meddling, political pressure, and foreign control of their economy. In response, these leaders argued for and institutionalized increasingly strict and expansive rules about sovereignty and non-interference. In other words, decolonization transformed rather than ending the struggle for self-determination.

Across these regions, state and non-state actors also placed great value on sovereignty as the realization of the collective right to self-

² Clapham 1996; Jackson 1990; Jackson and Rosberg 1982; Krasner 1985, 1999.

determination, while non-interference was understood as a corollary to this right and a means for realizing it against imperialism and neo-colonialism. Regional organizations respected non-interference, and they were also important tools for institutionalizing this norm and policing violations. Even where human rights institutions were set up within regional organizations, they were given no authority to interfere in member states' domestic affairs, and member states mostly ignored them.

However, in the 1970s, the paths of these regions diverged. In Latin America and Africa, leaders began to give up their strict opposition to interference, developing or dramatically expanding institutions for the enforcement of human rights within their regional organizations. At the same time, they called for others to defer to regional efforts to enforce human rights. In Latin America, leaders began to ratify the long-dormant American Convention on Human Rights *en masse*, consent to visits from the Inter-American Commission on Human Rights, and collectively challenge governments' human rights violations during meetings of the Organization of American States. They gave new authority to the Inter-American Commission, increased its budget, and allowed it to carry out its tasks. They also accepted the authority of the Inter-American Court on Human Rights. These institutions had been ignored or actively undermined since they were created, when leaders suddenly began to accept their authority and facilitate and augment their work. The Inter-American human rights system has since been regarded as one of the most effective in the world.³

In Africa, leaders passed a resolution calling for the creation of a regional human rights charter and a commission to enforce the charter in 1979, and they adopted the African Charter on Human and Peoples' Rights in 1981. The charter established the African Commission on Human and Peoples' Rights, an independent commission of human rights experts empowered to "resort to any appropriate method of investigation" to address human rights violations, including receiving and acting on accusations made by individuals and NGOs.⁴ The charter came into effect in 1986. Since that time, regional and sub-regional human rights institutions have proliferated. A human rights court was set up in 1998, and in 2000, the OAU was transformed into

³ European Parliament 2009: 5; Forsythe 1991; Goldman 2009: 857.

⁴ Organization of African Unity 1981: Articles 45(2), 46, and 60.

the African Union and given unprecedented authority to intervene militarily in member states in response to war crimes, genocide, and crimes against humanity.⁵ The African human rights system is generally considered to be less effective than Latin America's, with the latter benefitting from greater democratization in the 1980s. Nevertheless, African human rights institutions were designed with real power and autonomy, and their creation represented a real and significant shift away from the norm of non-interference.

By contrast, leaders in the Middle East and Southeast Asia continued to reject any interference and refrained from creating institutions that permitted even minimal interference long after these changes took place in Latin America and Africa. What regional human rights institutions have been created came about much later, have weaker powers, and are subject to greater state control.

In the Middle East, the members of the League of Arab States set up a human rights commission in 1968. However, the commission was made up of government representatives rather than independent experts, and its powers were distinctly respectful of sovereignty. Its mandate included facilitating dialogue, raising awareness, and coordinating member states' external human rights advocacy. In practice, it focused almost exclusively on advocating for the rights of Palestinians.⁶ A string of proposals for expanding the organization's human rights mandate and institutions in the 1970s and 1980s went nowhere, and it was only in 2004 that a human rights charter, establishing a new human rights commission, finally received enough ratifications to come into existence. Even then, the new commission remains limited in important ways. It cannot receive information about human rights violations from individuals within member states, considered a crucial piece of a human rights enforcement system. A human rights court, created in 2014, can only receive complaints from states and state-approved NGOs.⁷ Saudi Arabia is the only state to have ratified the court's statute.

Southeast Asian leaders made their first steps toward creating human rights institutions within ASEAN in 2009, establishing the ASEAN Intergovernmental Commission on Human Rights. Like the

⁵ African Union 2000: Article 4(h).

⁶ An-Na'im 2001: 712–14; van Hüllen 2015.

⁷ League of Arab States 2004: Article 48, 2014: Article 19.

Arab League's commission, the ASEAN commission has no formal authority to investigate or challenge member states or to even consider their domestic human rights records. It is also, as its name suggests, a commission composed of government representatives rather than independent human rights experts.⁸ The ASEAN Human Rights Declaration, adopted in 2012, is a statement of voluntary standards, not a set of legally binding obligations.

The consequences of this regional divergence have persisted and now extend beyond human rights. Regional and subregional organizations in Latin America and Africa have developed a wide range of institutions for democracy promotion and election monitoring, counterterrorism, civil conflict resolution, and anti-corruption. They have authority to monitor, criticize, sanction, and suspend member states. By contrast, while regional organizations in Southeast Asia and the Middle East have expanded into new issue areas, cooperation in sensitive political issues has remained much more limited and less institutionalized. Institutions that have been set up tend to be respectful of sovereignty, operating to a much greater degree under the control of the governments whose policies and behaviors they're meant to challenge.

What explains the sudden shift in approach to interference in Latin America and Africa, and why did leaders gravitate toward institutionalizing human rights within their own regional organizations? Why did this change occur only in some regions, while others held firm on the norm of non-interference for much longer and to a much greater degree? Each of these regions had developed similar practices and beliefs with respect to non-interference, and each derived significant strategic benefits from this norm. All valued sovereignty as the realization of the right to self-determination and saw non-interference as a means to realize this right in the face of pressures from more powerful states. Yet, out of these four regions, it was only in Latin America and Africa where the 1970s marked the beginning of a major transformation in how leaders approached state sovereignty, a transformation which spread to many other sensitive areas of these states' domestic politics.

In this book, I argue that this divergence was the result of diverging strategies for using institutions to resist the imposition of enforcement in the face of different pressures experienced by these regions.

⁸ Association of Southeast Asian Nations 2009.

It represented a transformation of the political struggle for self-determination. As articulated by Edem Kodjo, Secretary General of the OAU and one of the architects of the African human rights system, its creation was motivated by “the twin objectives of liberation vis-à-vis the rest of the world and the internal democratization of African societies.”⁹ This project, and the goal of self-determination, united democratic leaders, human rights advocates, and dictators whose governments were engaged in serious violations of human rights.

In the mid-1970s, Western governments began to enforce human rights by incorporating human rights considerations into their economic relations with developing states. Western governments leveraged developing states’ weakness and their economic dependence on the West to push acceptance of and compliance with human rights standards. Human rights had occasionally entered into their decision-making about trade and development assistance before this, but it was only in the 1970s that these policies became common and widespread.

These policies were seen throughout the Global South as neo-colonial and imperialistic; they clashed with widely held views about the principle of self-determination. However, simply objecting to the policies, including with appeals to sovereignty and the norm of non-interference, was ineffective. The citizens of Western states and prominent civil society groups had started to accept and even demand interference in response to serious human rights violations, while leaders like US President Jimmy Carter had themselves started to think of interfering in support of human rights as both legitimate and permissible under international law.

In Latin America and Africa, these interventionist policies became the new status quo, substantially altering leaders’ decision-making over whether to accept interference. Interventionist enforcement was going to happen one way or another, and the question now was *who* would interfere and *how*. It was at this point that leaders in these two regions began to establish their regional organizations as authorities over human rights. This change happened unevenly by region because the pressures were uneven. Western governments targeted Africa and Latin America, where doing so was relatively cheap and easy and did not jeopardize other important foreign policy goals, while largely

⁹ Kodjo 1990: 273–74.

subsuming human rights to other political and economic goals in the Middle East and Southeast Asia.

This strategy combined and appealed to widely held beliefs about the legitimacy of international institutions and local self-rule, and it leveraged concerns in the West about legitimate relations with weaker, post-colonial states. Because of this, where regional institutions met certain expectations about what enforcement ought to look like, Western leaders were willing to accept the authority of regional organizations and defer to their enforcement. The most important expectation was that regional institutions must be empowered to interfere in their members' domestic affairs.

I focus here on attempts to establish regional authority over human rights, but I argue that this strategy has been used much more widely. Developing and advocating for the idea of regions as authorities has been an important way for different political actors in the Global South, both within and outside of government, to increase capacity and space for self-rule. It has helped them resist the many pressures they face from more powerful actors, manage outside involvement in their region, and increase their own influence over global decision-making.

Establishing regional authority over human rights was an important example of this strategy. It was also an important moment of transformation away from this strategy being used to support state sovereignty and toward accepting interference as long as it was supported by or carried out through regional organizations. In fact, this reshaping of international authority has been especially pronounced in the area of human rights. Regional organizations are central to the international enforcement regime, with the relatively weak global regime standing in contrast to regional systems, whose human rights courts "have no global parallel."¹⁰ The most substantial form of enforcement – judicialization – exists exclusively within regional organizations.¹¹ Prominent advocates of human rights like the European Parliament and the International Commission of Jurists have characterized regional organizations as "fundamental" to the global human rights regime,¹² "constitut[ing] the main pillars of the international system for the promotion and protection of human rights."¹³

¹⁰ Voeten 2017: 119.

¹¹ Heyns and Killander 2013: 3; Pevehouse 2016: 487; Voeten 2017: 119.

¹² Sahraoui 2004: 339. ¹³ European Parliament 2009: 5.

This is despite the fact that, in many ways, human rights are poorly suited to a regional approach and clash with the idea of regional authority, as universality represents a core, defining feature of human rights. A UN study group, convened in 1968 to discuss the idea of regional human rights commissions, voiced concern that human rights were a “universal problem,”¹⁴ and “United Nations activities alone could ensure a uniform application of accepted norms.”¹⁵ In a volume released in 1982, Karel Vasak, a major figure in human rights known for developing the idea of “three generations” of rights, observed that, in the 1960s, regional approaches to human rights had been regarded with suspicion, seeming to represent a “breakaway movement” that challenged universality.¹⁶

Regional authority is not a natural or obvious feature of the international system, and the many downsides, weaknesses, and failures of regional organizations in the Global South are well-documented. Regions are home to significant rivalries and conflict; engage in biased decision-making; contain substantial linguistic, cultural, and political heterogeneity; and lack resources and political will for effectively dealing with regional issues.¹⁷ Instead, regional authority has been strategically constructed by actors that benefit from their regional organizations having a stronger voice and greater representation in global politics as it affects their region.

The argument presented here speaks to larger questions about the current world order and, in particular, how regional organizations came to be taken for granted as legitimate and effective sites for policy-making and global governance. It helps explain how appeals to the norm of regional solutions to regional problems, which recognizes a right for regions to address matters internal to themselves and promotes the idea that they are uniquely well-suited to do so, came to take on an almost ritualistic quality in global governance.

Appeals to this norm are part of the rhetoric of great powers, who use it to frame and justify their foreign policies. US representatives have extolled the importance of “African-led security efforts” in combatting terrorism, noting that “African leadership for African problems can lead to solutions.”¹⁸ Xi Jinping has promoted the idea of “Asia for

¹⁴ UN Commission on Human Rights 1968a: Para. 26.

¹⁵ UN Commission on Human Rights 1968a: Para. 29. ¹⁶ Vasak 1982: 451.

¹⁷ Diehl 2007; Hettne and Söderbaum 2006. ¹⁸ Thomas-Greenfield 2023.

Asians” as the Chinese government works to limit US influence in the region.¹⁹ United Nations Security Council resolutions and debates routinely acknowledge the important role of “relevant” regional organizations. The UN Secretary General holds annual coordinating meetings with representatives of regional organizations, and in a 2022 address, Secretary General António Guterres characterized cooperation between regional organizations and the UN as “essential.”²⁰

This idea of regional authority has reconfigured the logic of collective legitimization, with regional organizations becoming an important source of legitimization for global action.²¹ In establishing regional organizations as both legitimate authorities and legitimizers of global action, leaders using this strategy have increased space for self-determined action in the context of a constraining and hierarchical international system.

1.1 Overview of the Argument: Self-Determination Through Regional Authority

In this book, I argue that leaders in Africa and Latin America created, accepted, and expanded regional human rights enforcement institutions as part of a strategy to establish their regional organizations as authorities over human rights. By creating alternative enforcement institutions and arguing that others ought to respect and defer to these institutions, they were quietly pushing back against the imposition of human rights enforcement by Western governments. Leaders in these two regions became willing to relax their absolute rejection of international interference in pursuit of the larger, overarching goal of self-determination. Leaders in the Middle East and Southeast Asia, by contrast, retained their strict stance toward non-interference for much longer and to a much greater degree because they did not encounter these same forms of imposed enforcement.

In developing this argument, I conceptualize self-determination to include self-determination over international rules. It is this conception of self-determination that I draw from to talk about the imposition of human rights enforcement. This form of imposition is distinct from “cultural imperialism,” or the imposition of Western values onto non-

¹⁹ Jakobson 2016. ²⁰ Guterres 2022.

²¹ Barnett 1995a: 428; Claude 1966; Hettne and Söderbaum 2006.

Western peoples and societies, a common criticism of human rights. Imposition as I discuss it in this book is not about the content of rules or even the existence of a historical relationship of colonial or imperial domination, though these dynamics may also be present.²² Instead, it is about how states, and the people within them, are bound by rules and how those rules are enforced. In fact, many leaders and activists in Global South viewed guarding individuals' human rights from abuse by their state as important, and they were actively involved in promoting human rights in some contexts, including in institutions they shared with former colonizers. They did so at the same time as they rejected the exploitation of economic dependence as a means of enforcement.

I build on theorizing on self-determination from the fields of psychology, philosophy, and feminist and indigenous theory, which share a perspective on self-determination as consistent with and potentially realized through cooperation, interdependence, and the surrendering or pooling of sovereign decision-making authority.²³ This understanding forms an important part of how state and non-state actors throughout the Global South have long advocated for self-determination as a necessary basis for legitimate relations between states and the legitimate exercise of power in the international system.

What would it mean for international rules to be self-determined? How is self-determination realized in a system of sovereign states? The international side of self-determination has often been treated, both in scholarship and in practice, as synonymous with, or most fully realized through, sovereign independence and strict non-interference – in other words, with the complete exclusion of outside actors and rules.²⁴ As I discuss in Chapter 2, expanding and policing rules of non-interference, including within regional organizations, was one important strategy for realizing self-determination. It accomplished this goal by restricting forms of interference or pressure that would undermine self-determined action.

²² I am grateful to Desmond Jagmohan for pointing out this distinction to me.

²³ deCharms 1968; Deci and Ryan 2000: 233; Dworkin 1988; Friedman 2003; Kingsbury 2000; Lightfoot 2021; Mackenzie and Stoljar 2000; Mahmood 2011; Ryan and Deci 2006; Shrinkhal 2021; Xanthaki 2007.

²⁴ Cameron et al. 2006; Cassese 1995: 5–12, 205–73; Fabry 2010: 9–14; Goddard 2012, 2015; Goodman and Jinks 2013; Moore 2014: 133; Schmitter and Karl 1991: 81–82; Simon 2017; Walzer 1983: 62.