Libya, Yemen, North Korea, Syria — human rights are at the forefront of international politics these days. Since the adoption of the Universal Declaration of Human Rights in 1948, the world’s values have changed. Today, almost all states have ratified the UN Charter and one or more of the seven international agreements that form the core of international human rights law. This regime, which charts out principles for the promotion of wellbeing everywhere, has received wide recognition.

The issue today is not whether human rights should be respected but how best to ensure that they are. The debate is not theory; it’s over strategy.

This is a discussion of special importance for African, Caribbean and Pacific (ACP) states. For even as respect for human rights and other democratic values has gained credence in these regions, abuses continue to occur, sometimes prompting intervention or meddling by other countries. How to encourage respect for human rights is important as a matter of good governance. But it is also a means of protecting national sovereignty.

How best, then, to promote human rights? Perhaps surprisingly, the short answer is: not with more UN-based human rights treaties, but with other agreements — such as trade — that offer material benefits in exchange for compliance with agreed upon human rights norms.

**International Laws for Human Rights**

Even as more states ratify more treaties and protocols for the protection of human rights, abuses remain pervasive worldwide. Today, almost every nation on the planet has ratified one or more of human rights treaty—a majority of them also repress civil or political liberties
(according to Freedom House) and resort to political terror (according to Amnesty International). The human rights treaties have not been all that effective at convincing governments to actually protect human rights, even of those that profess to endorse them. This is because human rights treaties were not designed to address head on the political contexts and personal motivations that breed abuses. They can hardly change the deep-rooted societal and political problems that lead to violence, like war, tyranny, poverty, inequality, and prejudice. And they have not been able to alter the motivations of many human rights violators.

Instead of directly influencing the causes and conditions of abuse, these laws tend to make universal moral claims in an effort to persuade repressive actors to change their beliefs. They offer few material rewards in exchange for better practices and have only weak enforcement machineries.

To be effective, these laws must be taken up by local advocates and be applied by local courts. This is most likely to happen in settings where leaders control their security forces, are constrained by independent legislatures and courts, support active civil societies, and care about their image — precisely the settings in which human rights abuses are less likely to occur in the first place. The system doesn’t work well with the worst abusers.

Thus, creating more human rights treaties and pushing more countries to ratify them will not promote greater respect for human rights.

**Conditionality For Human Rights**

A far more promising way forward is to affect the cost-benefit calculation of human rights violators — to alter the “economics” of their crimes. Abuse may be abhorrent, but it is often a rational act people carry out because they perceive a benefit.

This is the reason that some economic agreements – such as trade, which condition the delivery of valuable goods on respect for human rights, have helped improve human rights practices. For example, there are more than 200 agreements today governing states’ access to regional markets. Semi-autonomous from the World Trade Organization regime, these agreements frequently regulate spheres of social governance, and increasingly human rights standards. Unlike human rights laws, most trade agreements are designed to change incentives, not values. Typically they offer material and political benefits and provide institutional structures to reward (and also punish) members’ behavior.

Consider the standard trade and partnership agreements used by the European Union. The prospect of joining the EU, with all its attendant economic benefits, has vastly improved respect for human rights in countries that are candidates for membership, such as Slovakia (back when it was a candidate) and Turkey. But more relevant for ACP states is the Cotonou agreement, and the Lomé agreements that preceded it.

The Cotonou agreement is the most far-reaching partnership agreement between developing countries and the EU. It offers benefits from economic and trade cooperation as well as assistance for development cooperation to certain ACP countries. It also commits “parties to undertake to promote and protect all fundamental freedoms and human rights, be they civil and political, or economic, social and cultural” (Article 9.2). A mechanism to encourage ongoing political dialogue, including about human rights, is provided, as is one for reviewing members’ performance. Associated financial protocols are also conditioned on the
respect for human rights.

The United States also participates in trade agreements that contain provisions to support improvements — and punish declines — in the human rights practices of some of its trade partners. The African Growth and Opportunity Act of 2000 (AGOA), for example, provides market incentives for states to liberalize their economies but conditions the benefits on the observance of human rights, specifically workers’ rights. The U.S. Generalized System of Preferences (GSP) does similar.

Consider one example. With Mauritania, this agreement helped support internal reform, punishing declines and rewarding improvements in protections for human rights. In 1993, the U.S. government suspended Mauritania’s benefits under the GSP for violations of workers’ rights. Mauritania amended its labor code and recognized a few labor unions. In the summer of 1996, while its GSP status was still in limbo, the U.S. House of Representatives passed a resolution condemning slavery in Mauritania and Congress passed an act requiring that all assistance to the country be withheld until it enforced antislavery laws.

The Mauritanian government both launched a national debate on slavery and ratified the International Labor Organization’s treaty banning forced labor. By 1997, it had recognized another trade organization and more NGOs, signed an agreement with the UN High Commissioner for Refugees to help resettle refugees, and created a new cabinet post, the Commissariat for Human Rights, Poverty Alleviation, and Integration to address slavery. In 1999, President Bill Clinton announced his intention to grant GSP benefits to Mauritania.

Mauritania’s improved human rights record wasn’t the only reason: in the meantime, the government had also recognized Israel and formally severed diplomatic relations with Iraq. But greater respect for human rights played a role and continued to afterward. Shortly after Clinton’s announcement, the Mauritanian government joined the UN treaty against the worst forms of child labor.

Historical statistical studies of the relationship between these kinds of trade agreements and human rights behavior confirm these examples. Repressive states violate human rights less when they are parties to even one trade agreement that incorporates human rights standards than when they are party to none. Those that are party to at least one such agreement are more likely to improve their human rights behavior over time than to stay at the same level.

The Limits of Conditionality for Human Rights

There are, of course, big limits to the effectiveness of conditionality. Agreements like the GSP and Cotonou usually only deal with first-generation rights: political and civil rights rather than economic ones. Their effect also tends to be partial. Conditionality simply can’t work everywhere for every problem. To be credible, it must involve costs or benefits that are significant enough to affect perpetrators’ behavior — and engineering this can be taxing for even the most committed of human rights stewards. Also, these agreements provide little sway over large economies; for those, the prospect of gaining benefits or the fear of losing them is relatively unimportant. China is a prime example.

Conditionality can also seem unfair, like an imperialistic imposition of the West’s values or preferences. This problem can be mitigated, however, by ensuring that conditionality is
based on truly universal norms — such as those in the Universal Declaration of Human Rights — and that these echo local ideas and ownership of human rights. Conditions are undermined when they look like a tool for advancing the interests of great powers. Advocating the endorsement of foreign values does not have much positive effect on human rights unless the policies are supported locally.

But when agreements like Cotonou promote values that are seen as legitimate by all partners and they impose conditions bearing material gains or losses, they have considerable potential to improve the human rights practices of repressive states.

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Footnotes

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