The twentieth century saw the most barbaric of wars, but also the beginning of a revolution in thinking about constitutions and human rights law. This continuing revolution emerged in the West out of horror at war and outrage at the widespread inhumane treatment of the individual by laws and governments, and a tradition of constitutional reflection. It was “globalized” by a combination of colonialism, imperialism, and the free choice of many non-Western peoples who gained independence after the great wars. With over half the world’s population Asia was profoundly affected by Western constitutional thought but dominated by Europe, the United States and Japan. By the 1930s Japan was the only fully independent Asian state.

During the Second World War, U.S. President Franklin D. Roosevelt spoke of human rights in terms of “Four Freedoms” for which the Allies were fighting: Freedom of Speech, the Press, and Expression; Freedom of Religion and Worship; Freedom from Want and Poverty; and Freedom from Fear. Later, his wife Eleanor would play an important role, along with other representatives of diverse cultures, in the formulation of a more expansive view of individual rights and freedoms in the United Nations Universal Declaration of Human Rights approved by the United Nations General Assembly on December 10, 1948.

That Declaration gradually took on the color of international humane customary law in the decades which followed. It has been supplemented by numerous refinements in related international legal instruments. It has placed human rights at the center of constitutional discourse around the world, however imperfectly implemented by many countries. Human rights have become the subject of a global movement sustained by still limited coordination and an infrastructure of non-governmental and governmental entities promoting and protecting a few or all enunciated human rights. The movement is an enterprise based on hope of ever more respectful treatment of each person.

Most of the 192 UN member states have made human rights a core element in their national constitutionalism, along with nation-state sovereignty, limitation and
division of state power, and the principles of rule of law and popular sovereignty. The term “human rights constitutionalism” seems preferable to “democratic constitutionalism” which commonly overemphasizes the will of the majority and property rights to the neglect of socioeconomic and criminal justice rights.

Discussions of the slogan “globalization” early in the 21st century centered more often on problems of economic and technological development and national security than on the status of human rights in diverse cultures. But the global collective conscience has ached in response to tragic massive slaughters and unaccountable governments; human rights are now at the political margin less frequently than in the past.

In 2005 UN Secretary General Kofi Anan described human rights as the third pillar of the UN’s architecture along with development and security. The International Council on Human Rights Policy finds human rights increasingly salient:

International law has also extended its range enormously since the 1960s. Not only are the core treaties much more widely recognized; many new standards have been created, and international human rights law has reached out beyond states to encompass private actors. Far more governments and many other organizations—from nongovernmental organizations (NGOs) to business and trade unions—have integrated human rights explicitly in their policies (or at least their rhetoric), and a host of non-governmental and civil society organizations now refer to human rights in their work. Human rights have also become academically respectable: numerous universities have created human rights centers and offer courses.

Three factors in the background of constitutional discourse in Asia and elsewhere deserve special attention: 1) governmental transparency and freedom of information flow regarding climate change and other effects of environmental pollution as a likely condition for human survival; 2) a world haunted by the presence of a number of nuclear weapons and other weapons of mass destruction (e.g. chemical, biological, electronic and space weaponry) that is excessive in light of national security needs, a further threat to human civilization; and 3) deeply institutionalized ignorance and intolerance of foundational beliefs different from one’s own on the part of governmental and other cultural elites, sometimes linked with ethnic bias. Such intolerance has served as an excuse for indiscriminate mass killings, in radical denial of human rights.

TOLERANCE OF HUMAN RIGHTS

The walls of intolerance and ignorance are thick, but high level cross-cultural discourse is increasing. In Asia, Islam, Christianity, Buddhism, Confucianism, Hinduism, and political and legal canons from the West provide cultural resources useful in discussing constitutionalism and nurturing tolerance of human rights. In academe, thousands of scholars in the Association for Asian Studies and other learned societies continue to build an infrastructure of reliable studies facilitating development of informed policy options. More by the undramatic accumulation over decades of increasingly precise and perceptive studies of elements within diverse cultural systems than by theories rooted in abstractions (Asian and non-