

Human Rights

Since 2009, over 10,000 people have been killed and 1.5 million people displaced due to Boko Haram-related violence in northern Nigeria. Boko Haram, whose name means "Western ways are forbidden," is a radical Islamist guerrilla group fighting the Nigerian government. Since 2014, the group has kidnapped more than 2,000 women and children from towns and villages. World attention was drawn to the situation when more than 270 girls were kidnapped from one boarding school in 2014, leading to an international media campaign, #BringBackOurGirls, that drew the support of activists worldwide. The campaign dominated the airwaves and social media for several months, only to die a slow death as the girls remained in captivity, more were kidnapped, and the Nigerian military floundered in its efforts to right the wrong. Twenty girls were released in 2016 and another 82 in May 2017, but nearly 100 girls remain in captivity, three years after the abduction. The estimated 9,000 Boko Haram fighters live to terrorize civilians another day.

What should the world do about these atrocities, if anything? For several centuries after the Treaties of Westphalia, state sovereignty remained unchallenged. How states treated individuals and groups within their own jurisdiction was their own responsibility. In the twenty-first century, that is no longer true. What happens in Asian cities, African towns, European streets, and American halls

of government is not only heard around the world but also watched carefully. State authorities that take coercive actions against individuals and groups are widely condemned by other states and the media, even if no others choose to act. Even what happens within the family (e.g., violence against spouses, children, and people of a different sexual orientation) is now viewed as a public issue.

The actions of Boko Haram and other groups committing such atrocities are no longer viewed as acceptable during war or civil conflict, any more than using child soldiers, torturing prisoners of war, or targeting groups because of their ethnicity or race is viewed as acceptable. And in peacetime, trafficking of people and illicit goods by states and criminal organizations and perpetuating violence against women either in the public or private sphere are actions no longer deemed to be defensible.

International human rights has emerged as another key issue in world politics. But while these issues have only relatively recently risen to a prominent place on the international agenda, the ethical treatment of individuals and groups of individuals—or human rights—has a long historical genesis. Over the ages, both philosophers and theologians have waxed eloquent over proper treatment of individuals and groups, while novelists and essayists have called attention to the evils of slavery, forced servitude, and the degradation of women and children. Individuals who have been prevented from freely expressing themselves or practicing their religion have emigrated, finding new homes far away from offending authorities. Civil wars are fought over acceptable treatment of individuals and groups. The principle that people care about other people comes from religious, philosophical, and historical traditions. We briefly explore those traditions and then trace how the notion of responsibility for protection of rights of individuals and groups has become internationalized.

LEARNING OBJECTIVES

- ▶ Describe the religious, philosophical, and historical foundations of human rights.
- ▶ Explain the roles that states, IGOs, and NGOs perform in the protection and monitoring of human rights.
- ▶ Identify what human rights have been protected under international law.
- ▶ Analyze why the international community has so often failed to respond to allegations of genocide.
- ▶ Analyze why women's human rights in the private sphere are so difficult to address.
- ▶ Explain the strengths and weaknesses of the R2P norm.

RELIGIOUS, PHILOSOPHICAL, AND HISTORICAL FOUNDATIONS

All of the world's great religions—Hinduism, Judaism, Christianity, Buddhism, Islam, and Confucianism—assert the dignity of individuals and people's responsibilities to fellow human beings. Different religions emphasize different facets: Confucianism, the social group; Judaism, the responsibility to help those in need; and Buddhism, the rejection of government policies that cause suffering.¹ But do these religions assert the inalienable rights of human beings to a standard of treatment? Or are these merely duties or responsibilities of the faithful? Who protects these rights and enforces these duties? Who acts on behalf of those whose rights are violated? Do these religions support human rights for all? The answers are not clear.

Like the world's religions, philosophers and political theorists have also conceptualized the rights of humans, each with different emphases. Liberal political theorists assert individual rights that the state can neither usurp nor undermine. John Locke, for example, wrote that individuals are equal and autonomous beings whose natural rights predate both national and international law. Public authority is designed to secure these rights. Key historic documents such as the English Magna Carta in 1215, the French Declaration of the Rights of Man in 1789, and the U.S. Bill of Rights in 1791 lay out these rights. Political and civil rights, including freedom of speech, religion, and press, deserve protection. Neither authoritarian governments nor arbitrary actions should deprive individuals of these freedoms, known as political and civil human rights.

Theorists in the radical tradition, heavily influenced by Karl Marx and other socialist writers, identify social and economic rights for individuals, which they believe the state should provide. Individuals, according to this view, enjoy material rights—rights to education, decent work, an adequate standard of living, housing—that are critical for sustaining and improving life. Socialist theorists believe that without these guarantees of socioeconomic rights, political and civil rights are meaningless.

What is included as a human right has continually been reconceptualized in the last two centuries, expanding into the realm of group rights. These include both group rights for marginalized peoples and collective rights. Group rights include protection for indigenous peoples, the disabled, and those of different sexual orientations. Collective rights include rights necessary for the collectivity to survive—namely, the right to development and the right to live in a democracy. These rights are highly contested within states and in the international arena. Yet the question is germane: Does the expansion of what is included as a fundamental human right actually dilute the very rights that others are trying to protect?



The Dharavi neighborhood is one of the biggest slums in Mumbai, India. Many of its residents lack decent work, education, housing, and health. Although human rights are often debated in lofty terms, the absence of socioeconomic rights protections has real consequences for people.

Four major debates emerge from these foundations. First, are such issues really human rights? That is, are they inalienable—fundamental to every person? Are they necessary to life? Are they nonnegotiable—that is, are the rights so essential that they cannot be taken away? If human rights are inalienable, are they not, by definition, universal rights?

Second, if human rights are universal, are they applicable to all peoples, in all states, religions, and cultures, without exception? Or are rights dependent on culture? Some scholars have argued for **cultural relativism**, the idea that some rights are culturally determined, and hence, that different rights are relevant in specific cultural settings. Particularly sensitive have been the debates on women's status, child protection, and practices such as female circumcision, practices that have divided Muslims from other religions (and have even divided some within the faith). Some scholars, like political scientist Jack Donnelly, argue for both universal and contextual elements, which he calls "relative universality."² The Vienna Declaration adopted at the 1993 World Conference on Human Rights stated, "All human rights are universal, indivisible and interdependent and interrelated." But the same document qualified the statement, saying "the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind."

Third, should some rights be prioritized over others? Just because political-civil rights have a longer historical genesis, are those rights more important than others? Some writers from East Asia, for example, argue that advocating the rights of the

individual over the welfare of the community as a whole is unsound and potentially dangerous.³ The socialist states of the former Soviet bloc, as well as many European social-welfare states, rank economic and social rights as high priorities, even higher than political and civil rights. Other states in the West prioritize political-civil rights. And, indeed, many of the international initiatives in articulating and enforcing rights have been on behalf of political-civil rights. Yet, to many, human rights are interdependent or linked; the purpose of each type of human right is to treat people with respect and dignity.

Fourth, who has the responsibility and the "right" to respond to violations of human rights? And is this response an absolute obligation or merely an opportunity? Traditionally, it has been the state's responsibility to protect its citizens, but if the state is the abuser, who should and can respond? How? Does state sovereignty trump protection of human rights?

The first global human rights movement, the antislavery movement, illustrates the long struggle in responding to these questions.⁴ Beginning in the late eighteenth century, abolitionists (including religious groups, workers, housewives, and business leaders) in the United States, Great Britain, and France organized to advocate for an end to the slave trade. In 1815, when the Final Act of the Congress of Vienna was signed, it stated that the slave trade was "repugnant to the principles of humanity and universal morality." The act was framed in terms of morality, not in human rights language. The act did not declare that slavery was illegal, nor did it provide mechanisms for supporting that aspiration. At that point, states did not view freedom as an inalienable right, fundamental to every person.

Nor did the right apply universally to all states and cultures. States responded individually to the actions of what were generally domestic constituencies: letter writing, petition signing, and public advocacy, among other actions. Responding to these pressures, both the British and American governments banned the slave trade in their territories in 1807 (i.e., new slaves could not be imported from abroad). But it was not until a half century later that the U.S. Civil War was fought to free the slaves. Elsewhere, Spain abolished slavery in Cuba in 1880, and Brazil ended the practice in 1888. The International Convention on the Abolition of Slavery was not ratified until 1926. The antislavery movement suggests that political-civil rights and social-economic rights are intertwined. Since slaves were owned by other humans as property, they had no rights, indeed no human dignity at all. Even after political and civil rights were won, the former slaves and their descendants had, and still have, a long struggle to acquire full social-economic rights, rights often denied because of discrimination and racism.

Recently, the Islamic State seems to have revived the institution of slavery. In 2014, the group forced Yazidi women by the thousands into sex slavery. Contrary to prevailing norms, the IS claims that the practice is a religious one approved

by the Koran, even as other Muslim scholars refute that association and affirm the universal consensus that slavery is both morally repugnant and illegal. But the practice continues. The International Organization for Migration reports that young North African males migrating to Libya in hopes of reaching Europe are being auctioned off for labor in a new slave trade. They are being held in bondage or imprisoned in Libya and forced to work. And African women are being bought by private Libyans and used as sex slaves. The Global Slavery Index, compiled by an NGO, finds that in 14 states, over 1 percent of the population is enslaved; half of these states are Muslim states.⁵ More generally, slavery has been reconceptualized in contemporary terms. In 1990, Anti-Slavery International included as part of its agenda the prohibition of human trafficking, child labor, and forced labor, each representing contemporary notions of slavery. In 2017, an estimated 20 million people remained in bondage. Over time, the notion of who is human expanded to include slaves and others in economically enforced servitude.

Recognition of who should take responsibility to protect rights has also expanded over time. States remain primarily responsible. But since World War II, the notion of an international community responsibility to protect human rights has developed.

HUMAN RIGHTS AS EMERGING INTERNATIONAL RESPONSIBILITY

Human rights only gradually became an international issue. While NGOs propelled the antislavery initiatives, it was one individual, Henry Dunant, a French medic working in the Battle of Solferino in 1859, who pushed for ways to protect those on the battlefield. Working in conjunction with a nongovernmental group, the Geneva Public Welfare Society, later to become the International Committee of the Red Cross, states codified that protection in 1864 in the first Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

Four Geneva Conventions (1949) and three protocols together form the core of **international humanitarian law** with virtual universal approval. These include Geneva I for protection of the wounded in the armed forces; Geneva II for protection of the wounded and sick shipwrecked at sea; Geneva III for protection of prisoners of war; and Geneva IV for protection of civilians at the time of war. These also form the basis for war crimes and crimes against humanity, now spelled out in Articles 7 and 8 of the Rome Statute (see below). Most of the norms regarding armed conflict apply only to interstate wars and to states, not to nonstate actors, though one of the protocols does apply to victims of noninternational conflicts.

Internationalization of human rights in other sensitive areas was slower to evolve. At the Congress of Versailles, which ended World War I, the Japanese government tried to convince other delegates, principally U.S. president Woodrow Wilson, to adopt a statement on human rights. As a victorious and economically advanced power, Japan felt it had a credible claim that such basic rights as racial equality and religious freedom would not be rejected. Yet the initiative was blocked, with the U.S. representatives recognizing that such a provision would doom Senate passage of the peace treaty.

The League of Nations Covenant made little explicit mention of human rights, although it noted protection of certain groups. For example, the Mandates Commission was authorized to protect the treatment of dependent peoples with the goal of self-determination, but it could not carry out independent inspections. Likewise, the 1919 Minorities Treaties required states to provide protection to all inhabitants, regardless of nationality, language, race, or religion. The League also established principles for assisting refugees, the precedent for the protected status of refugees under the 1951 Convention Relating to the Status of Refugees.

President Franklin Roosevelt's famous "Four Freedoms" speech in 1941 called for a world based on four essential freedoms. However, that new moral order would not take shape until after World War II, when the full extent of the Holocaust was shockingly revealed. With that recognition came the demand for international action. Thus, at the conference founding the UN, civil society groups, churches, and peace societies successfully pushed for inclusion of human rights in the charter. In the end, the UN Charter (Article 55c) gave a role to the organization in "promoting and encouraging respect for rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."

Drawing on the religious, philosophical, and historical foundations discussed earlier, the UN General Assembly approved the Universal Declaration of Human Rights in 1948, a statement of human rights aspirations. The statement identified 30 principles incorporating both political and economic rights. These principles were eventually codified in two documents, the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights, approved in 1966 and ratified in 1976. Together, the three documents are known as the **International Bill of Rights**. The conflict between Western and socialist views blocked conclusion of a single treaty.

Subsequently, the UN and its agencies have been responsible for setting human rights standards in numerous areas, as Table 10.1 shows. But, while the Charter gave human rights a prominent place and the states that ratified the conventions a standard to follow, the Charter (Article 2[7]) acknowledges the primacy of state sovereignty: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state." So who protects human rights and how?

TABLE 10.1**Selected UN Human Rights Conventions**

CONVENTION	OPENED FOR RATIFICATION	ENTERED INTO FORCE	RATIFICATIONS (AS OF 2017)
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GENERAL HUMAN RIGHTS

International Covenant on Civil and Political Rights	1966	1976	169
International Covenant on Economic, Social, and Cultural Rights	1966	1976	166

RACIAL DISCRIMINATION

International Convention on the Elimination of All Forms of Racial Discrimination	1966	1969	179
International Convention on the Suppression and Punishment of the Crime of Apartheid	1973	1976	109

RIGHTS OF WOMEN

Convention on the Elimination of All Forms of Discrimination against Women	1979	1981	189
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HUMAN TRAFFICKING AND OTHER SLAVE-LIKE PRACTICES

UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	1949	1951	82
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International Convention on the Abolition of Slavery and the Slave Trade (1926), as amended in 1953	1953	1955	123
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TABLE 10.1 (continued)

CONVENTION	OPENED FOR RATIFICATION	ENTERED INTO FORCE	RATIFICATIONS (AS OF 2017)
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UN Convention against
Transnational Organized
Crime: Protocol to Prevent,
Suppress, and Punish
Trafficking in Persons,
Especially Women and
Children

2000

2003

188

REFUGEES AND STATELESS PERSONS

Convention Relating to the
Status of Refugees

1951

1954

145

CHILDREN

Convention on the Rights
of the Child

1989

1990

196

PHYSICAL SECURITY

Convention on the
Prevention and Punishment
of the Crime of Genocide

1948

1951

149

Convention against Torture
and Other Cruel, Inhuman,
or Degrading Treatment or
Punishment

1984

1987

161

Convention for the
Protection of All
Persons from Enforced
Disappearance

2006

2010

58

OTHER

Convention Concerning
Indigenous and Tribal
Peoples in Independent
Countries

1989

1991

22

TABLE 10.1 (continued)

CONVENTION	OPENED FOR RATIFICATION	ENTERED INTO FORCE	RATIFICATIONS (AS OF 2017)
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	1990	2003	51
Convention on the Rights of Persons with Disabilities	2007	2008	175

Sources: University of Minnesota Human Rights Library and UN High Commissioner for Human Rights.

STATES AS PROTECTORS OF HUMAN RIGHTS

States, as the Westphalian tradition and realists posit, are primarily responsible for protecting human rights standards within their own jurisdiction. Many liberal democratic states have based human rights practices on political and civil liberties. The constitutions of the United States and many European democracies emphasize freedom of speech, freedom of religion, and due process. And those same states have tried to internationalize these principles. That is, it has become part of their foreign policy agenda to support similar provisions in newly emerging states. U.S. support for such initiatives is evident in both Iraq and Afghanistan, where specific human rights guarantees were written into the new constitutions. And the European Union has made candidate members show significant progress toward improving political and civil liberties records before granting them membership in the EU. These actions may represent subtle coercion—funding and membership are contingent on human rights protection. But in the long run, constructivists might anticipate that states become gradually socialized into these new norms of international behavior.

Why do democratic states support political and civil rights in their foreign policy? One explanation is based on self-interest: states sharing these values are better positioned to trade with one another and will, according to the democratic peace theory discussed in Chapters 3 and 6, be less likely to go to war with one another. The second explanation is based in liberalism: democracies believe strongly in the

protection of individuals from unsavory governments and desire those values and beliefs to be projected abroad.

Some European socialist states have taken up the mantle of protecting economic and social rights because they hold that the government should play a positive role in providing those rights. In this view, governments need to do as much as possible to ensure access to education, adequate health care, and employment. But how much should the government actually do? What is an adequate level? Economic and social rights are achieved only gradually, and thus the crux of the discussion is whether the state is acting in good faith and doing enough to protect the economic and social welfare of its citizens.

State Tactics to Protect Human Rights

What can states do if they believe that the human rights of individuals in another state are not being protected? A number of instruments are available. States may use diplomacy to try to improve human rights. They do this by tying other benefits—usually related to the economy or security—to an improvement in the state's human rights. For example, a state may be granted trade concessions if human rights abuses decline. These kinds of diplomatic agreements might have additional benefits for human rights as well: better economic relations and a more open economic system can create domestic pressure for less offensive human rights practices. With Cuba, the Obama administration expressed the same hope. For over six decades, sanctions had not stopped Cuba's abusive human rights practices and its imposition of socialism. The Obama administration felt that perhaps opening diplomatic relations and engaging with Cuba economically and culturally would result in the desired outcome. But the reversal of that opening by the Trump administration in 2017 suggests that negative sanctions will continue to be used to punish Cuba for its human rights abuses.

In addition to using economic incentives, the United States and European donor states can also tie better human rights policies to more foreign or military aid, or reduce aid if a state's human rights record is particularly egregious. In 1976, under pressure from Congress, the U.S. Department of State began writing annual country reports on human rights. Over time, these reports have become increasingly comprehensive. Along with annual reports from NGOs like Amnesty International and Freedom House, they are used in the process of deciding whether the United States should allocate foreign aid to a country or engage in a relationship. Just hours before then secretary of state John Kerry left for Vienna to conclude the Iran nuclear deal in 2015, the U.S. Department of State released a negative assessment of Iran's human rights record. However, these reports are not the only criteria, and sometimes major human rights violators do receive aid or win significant concessions because of other overriding strategic or political interests.



Human Rights and Human Security: A View from Canada

"Good international citizens," "the world's conscience," "the moral superpower of the Americas"—these words identify Canada and are often used by Canadians to describe themselves. Canada's policies reflect, in part, distinct values in terms of human rights and human security.

During the early years of the United Nations, Canada and the Nordic countries began to identify as middle powers. Such countries have, in the words of Canadian and Australian scholars, the "tendency to pursue multilateral solutions to international problems, tendency to embrace compromise positions in international disputes, and tendency to embrace notions of 'good international citizenship.'"^a That expression of good citizenship was seen early in the actions of Canadians working multilaterally. John Humphrey, a legal scholar and human rights supporter, was instrumental in drafting the Universal Declaration of Human Rights and was the first director of the UN Centre for Human Rights. Lawyer Philippe Kirsch headed the conference establishing the International Criminal Court, served as a judge, and was that court's first president.

Canada has been an international leader in promotion of women's rights, the rights of the child, and rights of sexual minorities. The state was one of the first to ratify the Convention on the Elimination of Discrimination against Women. Canadians also played a critical role in UN women's conferences in which women's rights were recognized as human rights. In 2017, the minister of foreign affairs announced the first Feminist International Assistance Policy on behalf of women's rights and sexual and reproductive rights. In the words of one Canadian official, "Part of being Canadian is to feel obligated to defend human rights."^b

Reflecting its strong support for multilateral institutions, Canada sent peacekeeping troops to every UN operation during the Cold War. But during the 1990s, as its military budget declined, Canada turned to niche diplomacy, concentrating its resources in a few specialized areas, including developing measures to reduce abuses against civilians during conflict.

That support for the protection of civilians provided a bridge from human rights to human security. That link was made during the Ottawa Process in 1996–97, when Canada spearheaded an innovative approach leading to the outlawing of land mines. Under the leadership of foreign affairs minister Lloyd Axworthy, the negotiators made elimination of these weapons, which kill and maim innocent people years after their deployment, a human rights issue. Canada's NGO community led the campaign on behalf of the ban and, after the negotiation, for ratification.

Canada's successful international leadership in promotion of human rights and human security issues would not be possible without its strong NGO sector. The umbrella organization Rights and Democracy lobbies Parliament and the prime minister. It also works to help implement Canadian government programs overseas. Other NGOs are key actors in mobilizing domestic constituencies at the provincial level. And Canada is a major funder of international NGOs like Human Rights Internet and groups like Child



Protesters reaffirm Canada's commitment to refugees despite some public concern after the Paris terrorist attack.

Soldiers International, as well as a willing partner in their activities.

Canada's generous spirit is also seen in its refugee policy. Peoples fearing persecution—the Hungarians in 1956, the Vietnamese in 1979–80, and the Iraqis and Syrians in 2016–17—were admitted as refugees. And gender discrimination and sexual violence are now considered in making the refugee determination, a pathbreaking development. After the election of President Donald Trump, persons residing in the United States with irregular immigration status were invited to Canada by Prime Minister Justin Trudeau. But by the middle of 2017, with Canada so swamped with these persons that the government lacked the capacity to process their resettlement, the invitation no longer held.

Promotion of international human rights and human security is one way Canada is distinguished from its neighbor. But, just like the United States, Canada is revisiting its past policies toward its indigenous population. Sir John A. Macdonald, Canada's first prime minister and architect of the confederation agreement, was an avowed racist, promoting what is now labeled cultural genocide: mandatory white schooling for indigenous children. As one Canadian admitted, "Sometimes we like to hold ourselves up as this perfect, inclusive, nonracist society, but we're not. . . . But I'm confident we're heading to a better place."^c

a. Andrew F. Cooper, Richard A. Higgott, and Kim Richard Nossal, *Relocating Middle Powers: Australia and Canada in a Changing World Order* (Vancouver: University of British Columbia Press, 1993), p. 19.

b. Quoted in Alison Brysk, *Global Good Samaritans: Human Rights as Foreign Policy* (New York: Oxford University Press, 2009), p. 92.

c. Arthur Milnes, quoted in Ian Austen, "In Canada, a Reckoning over a Racist Founding Father," *New York Times*, August 29, 2017, A4.

FOR CRITICAL ANALYSIS

1. If Canada's support for human rights varies according to the political party in office, how can one say that commitment to human rights forms an integral part of Canadian culture?
2. Canada seeks to separate itself from the United States. Canada supported the United States in the war in Afghanistan, but not in the war in Iraq. Did human rights play a role in that decision?
3. Can Canada be a world leader if it focuses only on human rights and human security? What would a realist say?

Punishing states through sanctions, as Table 5.1 (p. 161) shows, is another tactic states use to push for stronger human rights policies. Following China's crackdown on dissidents and the Tiananmen Square massacre in June 1989, the United States instituted an arms embargo against China and canceled new foreign aid; it was joined by Japan and members of the European Union. Some estimate that the coercive action may have cost China over \$11 billion in aid over a four-year period. But imposing sanctions to try to pressure a state to reverse its egregious policy (or policies) often punishes the population more than the state, impinging further on individual rights. Reports suggest that the international community's economic sanctions against Iraq after the first Gulf War resulted in a lower standard of living for the population and an imposition of real economic hardship on the masses, while the targeted elites remained unaffected. The purpose of the sanctions was to secure the elimination of Iraq's weapons of mass destruction—the chemical weapons that it did have and the nuclear weapons it did not possess.

In cases of particularly severe violations, like genocide or mass atrocities, states may choose to target an offending state using unilateral action. And sometimes states may justify sanctioning or employing force in the name of responding to human rights violations, even though they are really acting to protect other interests. Sanctioning is most effective if implemented multilaterally. But using force is less often a multilateral endeavor. In either case, using coercive measures to address human rights violations is selective and often controversial.

States as Abusers of Human Rights

States are also violators of human rights. Both regime type and forms of real or perceived threats to the state are explanations for state abuse. In general, authoritarian or autocratic states are more likely to abuse political and civil rights, while less developed states, even liberal democratic ones, may be unable or unwilling to meet basic obligations of social and economic rights due to scarce resources or lack of political will.

All states, including democratic ones, threatened by civil strife or terrorist activity are apt to use repression against foes, domestic or foreign. State security usually prevails over individual rights. In fact, the International Covenant on Civil and Political Rights acknowledges that heads of state may revoke some political-civil liberties when national security is threatened.

Nowhere is the potential clash between human rights and national security more focused than in the issue of torture, prohibited in the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. May states, fearing imminent attack or grave harm, use torture to coerce those they believe have relevant knowledge? If states restrain themselves and avoid coercive interrogations, some

citizens may die. Which, then, is the greater harm—violation of the rights of the detained, or loss of the lives of innocent citizens? In 2009, former U.S. vice president Dick Cheney argued publicly that political leaders had a greater responsibility to the nation's security, an argument reprised by candidate Donald Trump in 2016 during the U.S. presidential campaign. Others, including prominent American military leaders, responded by questioning whether less violent methods might not have achieved the same results. Still others, like U.S. senator John McCain—himself a victim of torture during the Vietnam War—have consistently argued that Americans should not use torture because it is wrong and violates what it means to be an American.⁶ Indeed, the Convention against Torture is clear: freedom from torture is a right never to be revoked. But what acts are considered torture remains controversial.

Economic conditions also influence a country's adherence to human rights standards. Poor states or states experiencing deteriorating economic conditions are apt to repress political-civil rights, in an effort by the elite to maintain authority and divert attention from economic disintegration. But even economically developed states may have difficulty meeting the demands of economic and social rights for all members of their population. Even a country as rich as the United States cannot provide access to basic medical care for certain rural sectors of its population. In some cases, those rights may be deliberately undermined or denied due to discrimination based on race, creed, national origin, or gender.

Finally, culture and history affect a state's human rights record. Where there is a long history of communal violence and ethnic hatred, human rights are more apt to be abused. High degrees of factionalization along ethnic, religious, or ideological lines also bring out the worst abuses.

THE ROLE OF THE INTERNATIONAL COMMUNITY—IGOs AND NGOs

What can the international community do to protect human rights? What can the United Nations and other intergovernmental organizations do when they are themselves composed of the very sovereign states that threaten individual and group rights?⁷

IGOs in Action

The human rights activities of the United Nations and other intergovernmental organizations (IGOs) involve, first and foremost, setting the international human rights standards articulated in the many international treaties. (See Table 10.1.)

With standards set, even though some may be aspirational, the IGOs can then move on to problems connected with implementing those standards.

Second, the United Nations and the Council of Europe's European Court of Human Rights have worked to monitor state behavior by establishing procedures for complaints about state practices, compiling reports from interested and neutral observers about state behavior, and investigating alleged violations. Monitoring state behavior is a sensitive undertaking. Special bodies have been established to examine, advise, and publicly report on the human rights situation in a given country or on worldwide violations. In 2017, a group of United Nations experts, in advance of a UN Human Rights Council meeting, voiced public concern over China's repression of Buddhist cultural practices in Tibet. But for China as well as for other states, intensive scrutiny of a government's behavior in its own country impinges on state sovereignty.

Beginning in 2006, the UN Human Rights Council initiated a new approach, the Universal Periodic Review, wherein every member state participates in evaluating the strengths and weaknesses of its own human rights record every four years. Based on that assessment, other states make recommendations, such as calling for the state to request assistance in a particular area, offering new approaches, suggesting that the state share its best practices with others, or even taking specific actions. For example, both Cuba and Burkina Faso have been pressured to abolish the death penalty. Empirical data suggests that almost two-thirds of recommendations have been accepted. But reforms occur slowly.⁸

The third area in which IGOs have operated is in taking measures to improve levels of state compliance. In the UN system, that responsibility rests with the office of the High Commissioner for Human Rights. Among the most visible of those promotional activities is ensuring fair elections. Since 1992, the United Nations has provided electoral assistance in over 100 countries. The role of the UN varies, from certifying the electoral process in Côte d'Ivoire in 2010 to providing expert monitoring—sometimes sharing that responsibility with states, as in Afghanistan in 2004 and 2005 and in the Republic of South Sudan in 2011. In 2014, the UN oversaw the counting of votes in the contested Afghanistan election. While not eliminating cheating and fraud, states gain legitimacy by having external monitors. Enforcement actions by IGOs for human rights violations are also possible, but rare. In the case of apartheid—legalized racial discrimination against the black majority in South Africa and a comparable policy in Southern Rhodesia (now Zimbabwe)—the international community took coercive economic measures. But the South African government did not immediately change its human rights policy, nor was the government immediately ousted from power.

In a few cases, states may use IGOs to respond to egregious humanitarian emergencies. So-called humanitarian intervention was used in the crisis in Somalia in 1992, in Kosovo by NATO in 1999 to halt large-scale ethnic cleansing by Serbian

forces, and in Libya in 2011 to halt what many predicted to be a widespread slaughter of people. In each case, the UN Security Council explicitly linked human rights violations to security threats. In some cases, the UN undertook coercive action without the consent of the states concerned; in other cases, NATO became the instrument of the intervention. Yet the cases wherein IGOs intervene are few. Many states are suspicious of strengthening international organizations' power to intervene in what they still regard as their domestic jurisdiction.

The International Criminal Court provides the means to prosecute leaders accused of crimes under international humanitarian law. Its record is discussed below. Other courts, mostly regional in membership, work to enforce human rights law. Both the European Court of Human Rights and the Inter-American Court of Human Rights respond to cases brought by states and individuals claiming that human rights norms have been violated. In 2016, the European Court alone sat in judgment in almost 2,000 cases. But while these courts make a legal determination, it is ultimately states that enforce decisions.

NGOs' Unique Roles

NGOs have been particularly vocal and sometimes very effective in the area of human rights. Of the hundreds of human rights organizations with interests that cross national borders, a core group has been the most vocal and attracted the most attention, including Amnesty International (AI) and Human Rights Watch (HRW). These organizations publicize issues, put pressure on states (both offenders and enforcers), and lobby international organizations. Furthermore, these organizations have often formed coalitions, leading to advocacy networks and social movements.⁹

NGO campaigns on a particular issue take time. During the 1970s, disability rights groups formed first in Europe and North America, generally organizing along lines of disability type. Activists were fragmented, and there was no overarching approach. Over time, these various groups adopted a rights-based approach. By 1992, seven of the groups had merged into a loose network, the International Disability Alliance. As new communication technologies were becoming mainstream, disability activists began to elicit the support of established NGOs like HRW and AI. With the backing of HRW and AI, and funding from the Open Society Institute, a disability convention was brought to the UN General Assembly. In 2006, the Convention on the Rights of Persons with Disabilities was adopted.¹⁰ By the end of 2017, 175 states had become parties to the treaty, obligating them to prohibit all discrimination on the basis of disability. This example illustrates how concerted NGO action over time can result in substantive international law.

The use of social media, Twitter, and the Internet has proven particularly effective for shaping discourse surrounding an issue and generating interest among

International and national actions on behalf of human rights objectives remain a very tricky business. This idea becomes all the more apparent when we delve into specific human rights problems.

SPECIFIC HUMAN RIGHTS ISSUES

Generally, international human rights treaties address separate issues, each of which is worthy of study. In this section, we first turn to a study of genocide and mass atrocities, since it was the reaction to the atrocities of World War II that led to the internationalization of human rights. Then we take up the issue of protection of women. That issue is instructive, as it involves the expansion of rights across time and space and it involves protection of rights in the public and private sphere.

The Problem of Genocide and Mass Atrocities

The twentieth century saw millions of deaths from deliberate acts of warfare, ethnic cleansing, crimes against humanity, and physical violence against individuals. Yet the word to describe one kind of physical violence—**genocide**—did not even exist



Armenians rally outside the Turkish consulate in 2017 to commemorate the 102nd anniversary of the Armenian genocide by Turkish forces during World War I. The claim of genocide is still contested, and some countries do not formally recognize the genocide.

during the first half of the century. A Polish lawyer, Raphael Lemkin, became so incensed by the destruction of Armenians in 1915 that he devoted his life to the human rights cause, penning the word *genocide* and then traveling around the world in support of an international law prohibiting it.

It took the genocide of Jews and other “undesirables” during World War II to finally make the international community ready to act. In 1948, the Convention on the Prevention and Punishment of the Crime of Genocide was adopted. Genocide is defined in the convention (see Box 10.1). While the convention was signed, ratified, and recognized as an advance in international human rights, like most legal conventions, it is both precise on some questions and vague on others. Such ambiguity often reflects disagreement among the parties during the negotiating process or an inability of the negotiators to reach a compromise. From one perspective, the convention is precise in terms of defining what constitutes genocide. The perpetrator of the genocide must have the intention to kill; the killing or maiming is not an unintended

BOX 10.1

The Genocide Convention

ARTICLE 1 The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and punish.

ARTICLE 2 In the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

ARTICLE 3 The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

result of violence or a random act. The targets of the violence must be a national, ethnical, racial, or religious group. But from another view, the convention is vague. It does not specify how many people must be killed to be considered genocide. Nor does it specify what evidence is necessary to prove intentionality. The convention provides no permanent body to monitor potential genocides or any system for early warnings. How the international community should respond is vague, but respond it should.

Despite the convention and the good intentions of the popular slogan "never again" in reference to the Holocaust, the international community has failed to act decisively in cases of purported genocide. One million Bangladeshis were killed in the 1970s; India intervened but did not stop the carnage. Two million Cambodians were killed in the same era, but Vietnam's intervention, undertaken for different reasons, was too late and the rest of the world was silent.

In the 1990s, over 800,000 Rwandans were killed while the small UN contingent on the ground sat back and watched. In the states of the former Yugoslavia, including Bosnia-Herzegovina, Croatia, Serbia, and Kosovo, people of one ethnic group were forced to move, were sometimes killed or placed in concentration camps, and were raped, but the reaction by the United Nations and NATO proved ineffective in stopping the carnage. In Darfur in the early 2000s, it is estimated that between 100,000 and 400,000 people were killed and millions were forced to move. While the NGOs provided humanitarian relief, states failed to act decisively. A UN/African Union peacekeeping force was approved later, but it had a narrow mandate.

In the Rwanda and Darfur cases, major states adopted a concerted policy not to use the word *genocide*, cognizant that admitting these cases were genocide would necessitate international responses. Instead, at the outset these were framed as "ordinary" ethnic conflicts. In retrospect, it is clear they were anything but ordinary. Even when the NATO-backed coalition was organized to stop the ethnic cleansing of Serbs in Kosovo, NATO never used the word *genocide* to describe what was happening. Neither is the word *genocide* used by many states, including the United States, for the killing of 1.5 million Armenian Christians in Turkey in 1915 because of fear of offending Turkey. A century later, the dispute continues today over what to call the abuse suffered by the minority group Rohingya in Myanmar. Is that crisis only a refugee crisis, as described in Chapter 11? Or do the actions approach a genocide?

Along with the prohibition against genocide came the codification of other crimes against humanity and crimes committed during warfare. These **crimes against humanity** are now incorporated in Article 7 of the Rome Statute of the International Criminal Court (see Box 10.2).

The former Yugoslavia illustrates the dilemmas associated with these terms and the different conclusions found after investigation of the events. During the war in the early 1990s, the term *ethnic cleansing* was coined to refer to systematic efforts by Croatia and the Bosnian Serbs to remove peoples of another group from their territory. During 1992 and 1993, the UN Commission on Human Rights concluded

Crimes against Humanity

ARTICLE 7 of the *Rome Statute of the International Criminal Court* reads as follows: For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

that there were "massive and grave violations of human rights" and that Muslims were the principal victims. The Security Council Commission of Experts found that all sides were committing war crimes, but only the Serbs were conducting a systematic campaign of genocide. But some states and many NGOs disagreed. In 2007, the International Court of Justice ruled that Serbia neither committed genocide nor conspired or was complicit in the act of genocide. The judges pointed to insufficient proof of intentionality to destroy the Bosnians. In 2015, the same court ruled that both Serbia and Croatia committed crimes, but the intent to commit genocide had not been proven.¹⁴ Labeling events an ethnic cleaning, a crime against humanity, or a genocide is not straightforward, yet the label has consequences, triggering a response should genocide be identified.

Cases of possible genocide and war crimes continue to occur. In 2015, the UN High Commissioner for Human Rights reported that the Islamic State may

have committed genocide and war crimes against the Yazidi community in Iraq and called for the Security Council to refer the case to the International Criminal Court. When celebrity human rights lawyer Amal Clooney took on the case of a possible genocide and war crimes in the middle of 2016 and appeared before the UN Security Council in 2017, the issue received wide public exposure. But so far the issue has stalled. International efforts to prevent or stop mass human rights abuses have been fitful. When prevention is not possible, for practical or political reasons, the next issue is whether and how to punish the individuals responsible.

Punishing the Guilty Individuals

A key trend in the new millennium is that individuals responsible for genocide and crimes against humanity should be held accountable. This idea is not new. After World War II, the Allies convened trials to punish German and Japanese leaders for their wartime actions. However, because these trials were the victor's punishment, they were not seen as legitimate precedents. Following the atrocities in Yugoslavia and Rwanda, the United Nations established two ad hoc criminal tribunals, the International Criminal Tribunal for the Former Yugoslavia, in 1993, and the International Criminal Tribunal for Rwanda, in 1994. These tribunals, approved by the UN Security Council, developed procedures to deal with the issues of jurisdiction, evidence, sentencing, and imprisonment. Because of the need to establish procedures and the difficulty in finding the accused, the trials proceeded very slowly. By the end of 2017, the Yugoslav tribunal had indicted 162 individuals, with convictions for 84 persons and acquittals for 19, at a price of more than \$2 billion. In late 2017, the last trial concluded. Ratko Mladić (the Butcher of Bosnia), accused of orchestrating ethnic cleansing and the slaughter of 7,000 Bosnian Muslim men and boys in 1995, was found guilty of genocide. The Rwanda tribunal led to 62 convictions and 14 acquittals, at a cost of \$1–\$2 billion.

In light of the costs and inefficiencies of these ad hoc tribunals, states under UN auspices negotiated the Rome Statute for the International Criminal Court (ICC), establishing an innovative international court having both compulsory jurisdiction and jurisdiction over individuals.¹⁵ The Rome Statute covers four types of crimes: genocide, crimes against humanity, war crimes, and crimes of aggression. No individuals (save those under 18 years of age) are immune from jurisdiction, including heads of states and military leaders. The ICC functions as a court of last resort, hearing cases only when national courts are unwilling or unable to deal with prosecuting grave atrocities.

In 2003, the work of the ICC began; by the beginning of 2018, it had opened preliminary examinations in eight cases, was investigating 11 cases, and had

issued 25 arrest warrants, many of which are still outstanding, including those for Sudanese president Omar Hassan al-Bashir and Joseph Kony of the Lord's Resistance Army. Four of the cases have ended in convictions. Most of these cases involve crimes committed in African countries. Few have been given extensive attention in the Western media, but the 2014 arrest and trial of Congolese warlord Bosco Ntaganda for war crimes of rape, murder, and use of child soldiers is a prominent exception.

While many supporters see the court as essential for establishing international law and enforcing individual accountability, the ICC is widely criticized. The United States asserts that the ICC infringes on U.S. sovereignty. Believing that the United States has "exceptional" international responsibilities as a hegemon, U.S. leaders feel that they, along with the American military, should be immune from the ICC's jurisdiction, and hence the United States has not ratified the treaty. While the controversy continues, the United States, as a member of the UN Security Council, voted in favor of referring Libya to the ICC in 2011. In 2016, Russia withdrew its support of the ICC after a preliminary investigation of alleged crimes committed by Russian and Georgian forces during the 2008 war. Most critically, African states, once supporters of the ICC, are increasingly skeptical of its neutrality since so many cases on the court's docket target African leaders. As a result, states like Gambia and South Africa withdrew, but they subsequently revoked their withdrawal, not wanting to be viewed in the same light as pariah states. Others like Namibia, Kenya, and Uganda continue to threaten withdrawal. In the fall of 2017, Burundi became the first state to actually withdraw. Such actions seriously jeopardize the court's legitimacy.

Has the ICC deterred would-be abusers, punished perpetrators, and fostered peace? On the first question, one study of the ten-year period before the ICC and the ten-year period after it finds that "actors who are concerned with their legitimacy in the eyes of domestic publics and/or the international community are much more likely to be deterred by the possibility of ICC prosecution than those who are not."¹⁶ On the second question, a few perpetrators have been punished, but not many and at a high cost. On the third question, some critics contend that bringing individuals to justice might jeopardize the long-term peace because those facing future prosecution may try harder to stay in power. The ICC's indictments of Sudan's al-Bashir for war crimes and his "essential role" in murder and atrocities in Darfur and of Kony for his war crimes in Uganda illustrate the dilemma. Would the conflicts have ended sooner had these cases not been referred to the ICC by the Security Council? Did the indictments complicate any potential political settlements? Has al-Bashir's open defiance of the court, buttressed by the noncooperation of many African states, including South Africa's refusal to arrest al-Bashir when he visited South Africa, undermined the court's legitimacy? For some, there needs to be a better way to proceed.

Reconciling and Rebuilding: Truth Commissions and Hybrid Arrangements

Truth commissions are another approach that has gained popularity since their use in South Africa following the end of apartheid. The idea behind such commissions is to examine in an open forum what happened during the time of crisis, in order to uncover the truth and, in the process, move forward with the reconciliation process. This approach is seen as appropriate in countries emerging out of civil war where violence is widespread, where blame is apportioned to all sides, and where all parties must now live side by side. Increasingly, truth commissions are used in conjunction with other legal mechanisms, such as local courts (as in Rwanda and Bosnia) or hybrid courts (as in Sierra Leone or Cambodia).

The hybrid court in Cambodia is a typical case. It has come under intense scrutiny for the price tag of \$300 million for three convictions. Law professor Philippe Sands, in discussing that case, expressed a more general, but not widely shared, sentiment: "I don't think it's a fair sign of success or failure just to look at dollar signs and convictions. The bigger question is, to what extent has this tribunal contributed to beginning the process of embedding the idea of justice, the absence of impunity, into public consciousness, to help Cambodians transition to a better place?"¹⁷ In 2017, procedures were established in Kosovo, with funding by the European Union, to build a body of law to address abuses during that conflict.

WOMEN'S RIGHTS AS HUMAN RIGHTS: THE GLOBALIZATION OF WOMEN'S RIGHTS

The case of women's rights illustrates how human rights have moved from the national to the international agenda, how different types of rights have become interconnected, and how women's human rights touch directly on cultural values and norms. Demonstrating that women's rights have gradually become a global issue, a UN poster prepared for the Vienna Conference in 1993 was headlined: "Women's Rights Are Human Rights." But this view has not always been the case.

From Political and Economic Rights to Human Rights

Women first took up the call for political participation within national jurisdictions, demanding their political and civil rights in the form of women's suffrage. Although British and U.S. women won that right in 1918 and 1920, respectively, women in

many parts of the world had to wait until after World War II. Then the immediate priority of the UN and its Commission on the Status of Women following the 1949 Universal Declaration of Human Rights was getting states to grant women the rights to vote, hold office, and enjoy legal rights. More than a decade later, the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) further articulated the standard, positing that discrimination against women in political and public life is illegal.

During the 1960s and 1970s, states paid more attention to economic and social rights for women. The development community had believed for many years that all individuals, including women, could participate and benefit equally from the economic-development process. Yet as experts began to examine statistics on economic and social issues relevant to women, they found that not to be the case. Men benefit disproportionately from the introduction of technology, whether bicycles or tractors, appropriating it for themselves. Women need policies specifically aimed at them.

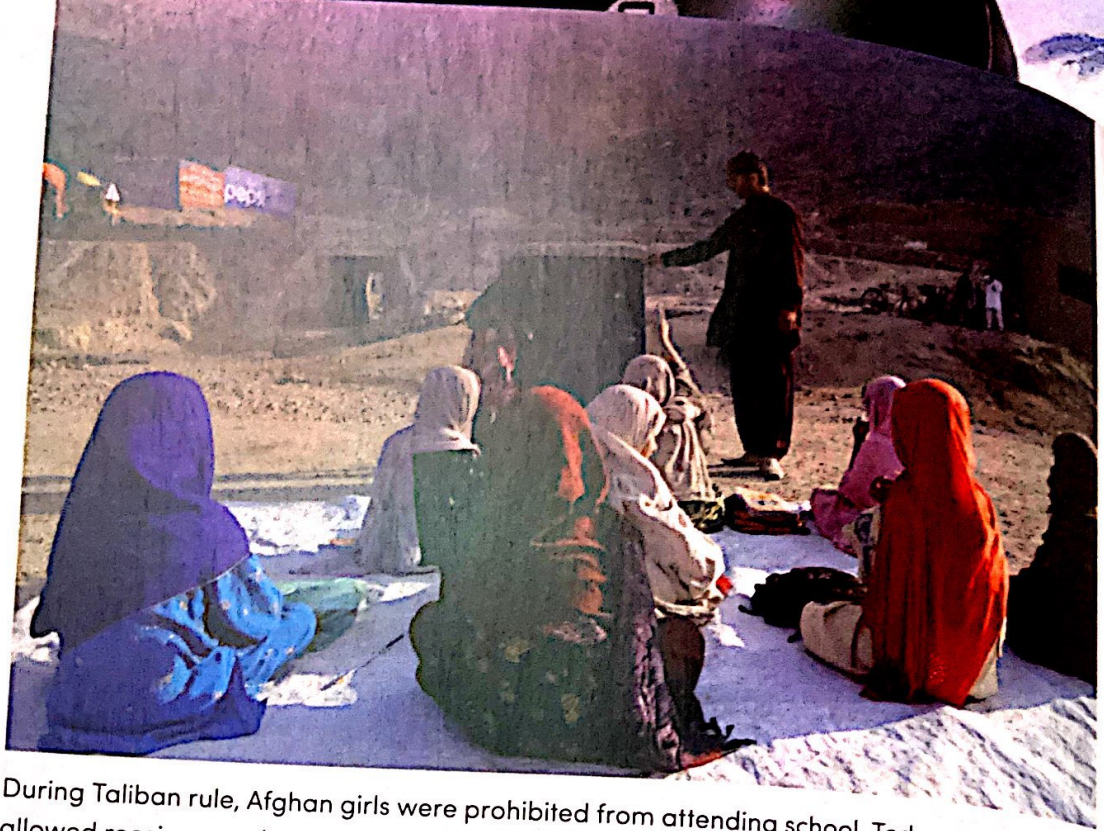
The result was the women in development (WID) movement—a transnational movement concerned with systematic discrimination against women and the failure of development to make an impact on the lives of the poor. The movement gained steam through four successive UN-sponsored world conferences on women, where women mobilized and networks developed enabling them to set a critical economic agenda affecting women, including equal pay, maternity protection, and nondiscrimination in the workplace. Under WID, the World Bank and virtually the entire UN system initiated programs for women's economic enhancement. Today, the WID agenda is well integrated in most international assistance programs.¹⁸

CEDAW addresses both political-civil rights and a wide range of socioeconomic rights. Although 189 states have become parties to the treaty, a number of states have added reservations that clarify how the states will implement the treaty commitments. Many of those reservations protect the right of states to impose their own domestic laws with respect to the rights of women. States like Algeria and Egypt, along with many others, noted conflicts between CEDAW and their own domestic and family law codes and prioritized domestic laws reflecting religious and cultural values.

Most controversial has been protection against human rights abuses in the private sphere. The latter includes violence against women in the family and domestic life and violence against women in war, namely rape and torture. In short, gender-based violence against women in all arenas was identified as a breach of both human rights and humanitarian norms.

Continuing Violence against Women

In 2015, the UN reported that violence against women and girls “persists at alarmingly high levels”—more than one in three have experienced physical violence. Two examples illustrate this widespread and often controversial problem.



During Taliban rule, Afghan girls were prohibited from attending school. Today, girls are allowed receive an education, but still face many difficulties in doing so.

Rape is a prime example of violence against women. Several contemporary events highlight this unique form of violence against women: the rape of 2,000 Kuwaiti women by Iraqi soldiers during the 1991 Gulf War; the rape of 60,000 Bosnian women in 1993 by Serb and Croat forces; the rape of 250,000 women in Burundi's and Rwanda's ethnic conflicts in 1993–94; the rape of an estimated 200,000 women during ongoing violence in the Democratic Republic of Congo; and the rape of over 200 women and girls in Darfur in 2014. In Nigeria, of the 234 women rescued by the military from Boko Haram in 2017, 214 were pregnant. And in 2017, the Islamic State is reported to have normalized widespread rape and torture of both Sunni Arab women and ethnic minorities like the Yazidis. Plus, the reports of rape committed by the Myanmar military on Rohingya women continue almost daily. At earlier wartime trials, rape was not brought up as a war crime, even though states systematically employed it as an instrument of war during World War II.

Is rape part of a deliberate strategy of war, part of a systematic state policy? At the tribunal for Rwanda, Jean-Paul Akayesu was accused of gang rape and genocide. In a controversial 1998 decision, the judges issued the unprecedented ruling that rape constitutes not only a crime against humanity but also genocide. Now the statute for the International Criminal Court includes rape, sexual slavery, and forced prostitution among crimes against humanity, when such actions are part of a widespread and systematic attack against a civilian population. Despite this finding, critical questions persist: Is rape a strategy to build group cohesion among militias? Alternatively, is rape a product of opportunity—a crime, to be sure, but not a

wartime strategy? Dara Kay Cohen, in *Rape during Civil War*, discusses these possibilities, using interviews with both victims and perpetrators in three conflicts.¹⁹

Rape is not just a wartime issue. In South Asia and the Middle East, the problem is particularly acute even during peacetime. In some places, the rape of women may be seen as an acceptable act of revenge for a prior wrong. The raped women, being dishonored, may be subsequently killed. Or prosecution of the crime may be difficult, as in Pakistan, where a woman who has been raped may be convicted of adultery unless four male witnesses corroborate her rape story. The case of the gang rape of an Indian student in 2012 and her subsequent death brought the issue into the international limelight in a country where the definition of rape is vague, local police and government authorities fail to investigate, and prosecutors do not pursue cases vigorously. Under widespread public pressure, the Indian government fast-tracked the prosecution of that case and gave four death sentences.

Physical assault against women is a problem in many parts of the world, as well. Beginning in the 1990s, Ciudad Juárez, Mexico—across the border from El Paso, Texas—experienced a wave of attacks against women, about a third of which involved sexual assault, resulting in 304 deaths in 2010 alone. Like in Pakistan and India, Mexican authorities have been criticized for their lax investigations and failure to bring perpetrators to justice. In the U.S. military, rape of female soldiers by their male counterparts attracted widespread attention in 2012–13. While the military has taken measures to curb this abhorrent behavior, Congress left prosecution in the hands of the military itself, much to the dismay of those wanting civilian authorities to handle cases.

Increasingly, human rights NGOs like Human Rights Watch and Amnesty International bring violations of women's rights to the attention of the international community, and public pressure is brought to bear. If state authorities fail to take these cases seriously, then the state, too, becomes complicit. But given different cultural norms, private-sphere activities are much easier to hide and more resistant to change.

Trafficking in women and children is another form of gender-specific human rights violations. While prohibited under the CEDAW convention, the practice has become more prevalent, facilitated by open borders, pressures to keep labor costs low, and poverty that drives women and families to seek any kind of employment (including working in the sex trade). The number of women forced into bonded sweatshop labor and domestic servitude is unknown, ranging between 12 and 27 million persons; about one-quarter of these are trafficked, many for the sex trade. This problem is especially vexing, because unlike rape, in which consent is not given, women may choose to be trafficked for economic reasons. Yet the international community, speaking through several treaties, has made this kind of exploitation illegal (see Table 10.1).

Although international standards against trafficking in women and children exist, monitoring and enforcement remain difficult. First, despite the international

agreements, disagreement remains on the local level about what constitutes trafficking. Second, the clandestine nature of the problem complicates enforcement. Furthermore, the issue has been framed as both a human rights problem and a transnational crime issue. Various UN-related groups responsible for monitoring and pressuring states, and anti-trafficking NGOs, are involved. They employ a variety of different strategies, including giving alternative employment opportunities to women, educating women on the dangers of trafficking, punishing the traffickers through incarceration, and providing stricter law enforcement across national boundaries.

In the long term, the solution to fully address discrimination against women, be it political, economic, or social, is to elevate women from their historically subordinate status to men. Liberal feminists see that progress has been made, as women have secured privileges that were once exclusively male prerogatives. The fact that both public and private abuses are the subject of media attention, concerted NGO activity, and state action also denotes progress. However, radical (socialist) feminists do not see as much progress as they point to the economic forces that continually place women in a disadvantaged position. Encouragingly, virtually all condemn the various forms of both public and private violence against women, though their remedies for relief vary.

While the legal stage has been set by various human rights treaties and international organizations, the mainstay of enforcement will continue to be at the state level. And there, women's rights international NGOs have proven critical. According to an empirical study of over 1,500 such organizations from the 1990s to 2005, NGO shaming improved women's economic and social rights but had less impact on women's political rights.²⁰ Such groups support specific policies—funding shelters, creating rape crisis centers, adopting legislation protecting vulnerable populations, and funding prevention programs.²¹

What is the linkage of the treatment of women at the individual level to the broader international relations questions? One prominent study that examined this micro-macro link finds that the best statistical predictor of state peacefulness is not democracy or wealth but the level of physical security for women. The higher the level of violence against women, the more likely the state is to be involved in interstate and intrastate conflict and the less likely the state is to be acting peacefully in the international system.²²

THE DEBATE OVER HUMANITARIAN INTERVENTION AND R2P

Moving from articulating support for human rights in all their various manifestations to enforcing international human rights standards against abusers is fraught with difficulty. The just war tradition asserts that military action by states or the

international community may be necessary to alleviate massive violations of human rights—such action is also known as **humanitarian intervention**. That position contradicts the Westphalian view of state sovereignty. Yet throughout history, states have applied military intervention on behalf of humanitarian causes, although they have done so on a selective basis. In the nineteenth century, Europeans used military force to protect Christians in Turkey and the Middle East, though they chose not to protect other religious groups. And European nations did not intervene militarily to stop slavery, though they prohibited their own citizens from participating in the slave trade.²³

Since the end of World War II, the notion has emerged that all human beings—not just particular groups—deserve protection, and traditionally states have had the responsibility to protect their own people, free from external intervention, as an essential feature of sovereignty. But in the 1990s, after humanitarian crises in Somalia and Rwanda, and following widespread murder, rape, and devastation in Darfur, Sudan, the International Commission on Intervention and State Sovereignty, composed of scholars, high-level officials, and Canadian government personnel, changed the discourse. It maintains that if the state does not protect its own, then other states should do something, even using military force as a last resort, if authorized by the UN Security Council. That is the foundation argument of the **responsibility to protect (R2P)**.

R2P is the idea that in cases of massive violations of human rights, when domestic avenues for redress have been exhausted and actions by other states might reasonably end the abuse, these states have a *responsibility* to intervene in the domestic affairs of the state in which the abuse is occurring. As two UN officials described the development of R2P, “[This] marks the coming of age of the imperative of action in the face of human rights abuses, over the citadels of state sovereignty.”²⁴

Like many international institutions, the responsibility to protect comes with its own set of problems. Can intervention be a legitimate response if it is used only selectively, in some cases and not in others? In 2011, for example, why did the international community (the UN, NATO, and the Arab League) all voice support for military action against Libya’s Colonel Muammar Qaddafi? Qaddafi’s predictions of “rivers of blood” against his opponents and his threats to “cleanse Libya house by house” provided the justification for internationally sanctioned intervention.²⁵ But mass atrocities against the Syrian people since 2011 attributed to the Syrian regime of Bashar al-Assad have not led to the same response. Might the danger be that all interventions in another state’s affairs can ultimately be justified by R2P? After all, the American government, when no weapons of mass destruction were found in Iraq, justified the invasion by pointing to the ruthless regime of Saddam Hussein. And Russian president Vladimir Putin invoked a version of R2P in his justification for annexing Crimea in 2014.

Putin argued that a military intervention was part of Russia's responsibility to protect the lives and property of ethnic Russians in Crimea and parts of eastern Ukraine. When does the use of the term become a justification for a state or group of states to act in its national interest on issues having nothing to do with protection of individuals or groups?

Indeed, states differ over interpretation of the norm. When the UN Security Council approved the resolution authorizing measures to protect Libyan civilians, Brazil, India, China, and Russia abstained. In particular, Russia and China place the highest priority on sovereignty and noninterference in the internal affairs of states. When NATO acted to end Qaddafi's four-decade rule, Brazil joined with Russia and China in expressing public outrage. As Brazil argued, the Libyan intervention acted against humanitarian purposes because it created conditions that accelerated the terrorist threat and resulted in more civilian deaths. Brazil later supported an alternative concept, "responsibility while protecting." They argued that a case-by-case assessment of the consequences of military actions was needed so that more civilians would not be put at risk.²⁶

Questions about R2P remain. How massive do the violations of human rights have to be to justify intervention? The Geneva Conventions specify that "genocide" is not about how *many* people are killed, but about the *intent* to kill an entire group. Who decides when to respond to the abuses? Might some states use humanitarian intervention as a pretext for achieving other, less humanitarian goals? Should states have an obligation to intervene militarily in these humanitarian emergencies? Why are some interventions justified (e.g., Kosovo and Libya), while others, in which equally heinous abuse is taking place (e.g., Rwanda and Syria), are ignored?

Given their experiences under colonial rule, many Asian and African countries are skeptical about humanitarian justifications for intervention by Western countries. Other states, such as Russia and China, have insisted that for a claim of humanitarian intervention to be legitimate, it must be authorized by the UN Security Council, where Russia and China are among the powers possessing a veto. In practice, humanitarian interventions are often multilateral, although they do not always receive authorization by the UN. For instance, when Western states sought military intervention in Kosovo, Russia opposed the measure, so Western powers turned to the North Atlantic Treaty Organization (NATO) instead.

States that have supported humanitarian interventions in the past do not always support future interventions. This change in policy can occur for several reasons, including the perception of the success or failure of previous missions, as well as the nature of other interests at stake in the conflict. Having suffered a humiliating setback in Somalia in 1993, for instance, the United States (and the UN) opposed increased use of the military to protect civilians in Rwanda in 1994, despite clear evidence of genocide. Similarly, only a small military contingent from the

African Union was originally mobilized for the Darfur region, despite between 100,000 and 400,000 deaths and the culpability of the Sudanese government. In the Darfur case, other national interests were deemed more vital than support for humanitarian intervention: China cared about access to Sudanese oil; Russia cared about export arms markets; the United States was preoccupied with Iraq and the war on terrorism. In May 2012, a massacre of women, children, and even infants in Taldou, Syria, by the security forces of Syria's Bashar al-Assad caused an international outcry, but China and Russia opposed UN-sanctioned military intervention. Both countries issued statements asserting that any foreign military intervention would only make the situation in Syria, and the region, worse. Russia's and China's positions on intervention ultimately failed to halt international military intervention in the civil war in Syria (2012–present). This outcome may be why Russia later determined that its own military intervention in Syria was both necessary to reverse the chaos caused by U.S. and allied interventions, and just.

So although support for R2P is an emergent norm, it remains the subject of ongoing controversy. Because states do not intervene in all situations of humanitarian emergency, state sovereignty remains intact. But when gross violations of human rights are obvious, and when military intervention does not conflict with other national interests, states increasingly view humanitarian intervention as a justifiable use of force on behalf of human rights. Yet as Rosa Brooks reminds us, "Once you assert that every state can decide for itself that a military intervention inside another state's borders is justified, regardless of the Security Council, you're on a very slippery slope."²⁷

CONTENDING PERSPECTIVES ON RESPONDING TO HUMAN RIGHTS ABUSES

What explains the lack of decisive action in responding to human rights abuses? Realists say that states have determined that it is not in their national interest to respond, since human rights abuses do not usually threaten a state's own national security. If genocide committed by one state does jeopardize another state's security, including intruding on its core values, then it could act. As former U.S. national security adviser Henry Kissinger has warned, a wise realist policy maker would be moved not by sentiment alone or by personal welfare, but by the calculation of the national interest.²⁸ How else can we explain the lack of a coercive

international response to egregious violations of human rights, as occurred with the United States regarding Rwanda, China regarding Darfur, and Russia regarding Syria? For many realists, such as Rosa Brooks, R2P is "irrelevant or pernicious."²⁹

While national interest is generally viewed in terms of security, it may be broader than that, encompassing historical tradition or domestic values. The United States has historically fought for human rights consistent with its domestic values. President Franklin Roosevelt in 1941 affirmed, "Freedom means the supremacy of human rights everywhere. Our support goes to those who struggle to gain those rights and keep them." After World War II, Americans advocated punishing the guilty and, at the UN's founding conference, there was strong American support for including human rights as a key area of responsibility. Yet other U.S. actions have not followed. During the Cold War, the United States supported anticommunist regimes, even those having abusive human rights records; the United States also supported the South African white regime. Furthermore, it failed to ratify many key human rights documents, including the statute on the International Criminal Court. The realist explanation is that these actions were in the national interest and consistent with protection of sovereignty.

Liberals would be more likely to advise state intervention in response not only to genocide but also to less dramatic abuses. Liberals' emphasis on individual welfare and on the malleability of the state makes such intrusions into the actions of other states more appealing to them. Like the realists, they may prefer that nongovernmental actors or humanitarian agencies take the initiative. Hence, sending in the UN humanitarian agencies is often their first response. But liberals generally see it as a state's duty to intercede in blatant cases of human rights abuse. However, that interest may conflict with other contending interests—preserving an alliance, hamstringing an enemy, or putting resources into domestic policy initiatives. For most liberals, humanitarian intervention or R2P is more legitimate if it is authorized and implemented by international institutions. Requiring multilateral approval makes it more difficult for a single state to intervene for purposes other than protection of others.

For constructivists, human rights represents a key test of the central tenet that ideas matter; ideas such as human rights can change and amplify over time. Constructivists try to explain the local, domestic, and international forces that propel the changes and how states' responses to human rights abuses may reflect these broader changes. Among those broader changes is the constructivist notion of sovereignty. Since sovereignty is not absolute in the Westphalian tradition, it is contingent and changing as new international issues emerge and states, international organizations, and nongovernmental organizations respond to human rights abuses.