CHAPTER 5

The United Nations, Human Rights, and Humanitarian Affairs

IN 1998, THE CELEBRATION of the fiftieth anniversary of the Universal Declaration of Human Rights focused world attention on the important role the UN had played in promulgating and promoting international human rights norms and principles. It served to remind the world that the principles espoused in the declaration, an elaboration of the UN Charter, placed limits on governments' claims to unbridled sovereignty. According to those principles, established standards of civilized conduct apply to all states and govern the relationship between governments and those over whom they rule.

Yet, after the attacks by Al Qaeda in the United States on September 11, 2001, a lawyer at Harvard University openly advocated torture as a legitimate security measure.[1] Another prominent public intellectual, Michael Ignatieff, who is associated with both Harvard and Toronto Universities, argued that even liberal democracies could understandably violate even the most basic human rights when faced with major threats to national security.[2] In January 2003, the respected British magazine *The Economist* ran a cover story under the title, "Is Torture Ever Justified?" This focus was a follow-up to a story in the *Washington Post* reporting that in its war on terrorism, the United States was using "stress and duress" interrogation techniques on prisoners detained in Afghanistan and at its detention facility in Guantánamo Bay, Cuba, where by 2005 more than thirty prisoners attempted suicide. At the now infamous prison in Iraq, Abu Ghraib, U.S. personnel subjected prisoners to torture and degrading treatment. The United States also transferred certain prisoners to states like Egypt, Morocco, Jordan, and Syria, where interrogation procedures were, euphemistically speaking, harsh. All of this is coupled with alleged secret CIA detention facilities in Eastern Europe and the lobbying by Vice President Dick Cheney to exempt the CIA from antitorture legislation. The feelings of insecurity have had the effect of weakening such

human rights norms as the total prohibition of torture in all situations. War and protection of many human rights, like the prohibition of torture, appear to be inversely correlated.[3]

THE THEORY

Since 1945 states have used their sovereignty to create international human rights obligations that in turn have restricted their operational sovereignty. The international law of human rights, developed on a global scale at the United Nations, clearly regulates what legal policies states can adopt even within their own territorial jurisdictions. International agreements on human rights norms have been followed at least occasionally by concrete, noteworthy developments showing that international organizations have begun to reach deeply into matters that were once considered the core of national domestic affairs.

Moreover, the process by which the assumed sovereignty of the territorial state has given way to shared authority and power between the state and international organizations is not a recent phenomenon. These changes accelerated with the start of the United Nations in 1945, became remarkable from about 1970, and became spasmodically dramatic from about 1991. The role of the UN in human rights remains one of the more provocative subjects of the twenty-first century, what Sarah Zaidi and Roger Normand have aptly called "the unfinished revolution."[4]

Noting these historical changes concerning the United Nations and human rights is not the same as being overly optimistic about these developments. Indeed, some UN proceedings on human rights would "depress Dr. Pangloss," the character in Voltaire's *Candide* who believes that all is for the best in this best of all possible worlds.[5] Although noteworthy in historical perspective, UN activity concerning human rights often displays an enormous gap between the law on the books and the law in action. At any given time or on any given issue, state expediency may supersede the application of UN human rights standards. Revolutionary change in a given context may not be institutionalized in UN machinery;[6] similar situations can give rise to different UN roles and different outcomes for human rights. A number of states, some of them with democratic governments, have opposed progressive action for human rights at the United Nations. If the international movement for human rights means separating the individual from full state control, then this movement has not always been well received by those who rule in the name of the state and who may be primarily interested in power, wealth, and independence.

The territorial state remains the most important legal-political entity in the modern world despite the obvious importance of ethnic, religious, and cultural identifications and an increasing number of actors in civil society everywhere. Thus many ethnic and religious groups try to capture control of the government so that they can speak officially for the state. The state constitutes the basic

building block of the United Nations. State actors primarily shape the UN agenda and action on human rights, although states are pushed and pulled by other actors, such as private human rights groups and UN secretariat officials. Developments at the UN concerning human rights have sometimes been remarkable. However, in general, state authorities still control the most important final decisions, and traditional national interests still trump individual human rights much of the time in international relations.

Positive and negative developments concerning the United Nations and human rights were in evidence in 1993 at the World Conference on Human Rights, held in Vienna.[7] Many states reaffirmed universal human rights, but a small minority of delegations, especially from Asia and the Middle East, argued for cultural relativism in a strong form—namely, that there were few or no universal human rights, mostly only rights specific to various countries, regions, or cultures.[8] Some of the delegates making arguments in favor of strong cultural relativism were representing states that were party to numerous human rights treaties, without reservations.

A large number of NGOs attended the conference and tried to focus on concrete rights violations in specific countries, but most governments wanted to deal with abstract principles, not specific violations. At the same time that the U.S. delegation took a strong stand in favor of internationally recognized human rights in general, the Clinton administration refused to provide military specialists and protective troops to conduct an investigation into war crimes in Serbian-controlled territory in the Balkans. These examples show that a certain diplomatic progress concerning international human rights was accompanied by much controversy and reluctance to act decisively.

The distinction between human rights and humanitarian affairs is a legal one. In international law, there are two legislative histories and bodies of law: one for human rights and one for international humanitarian law—the latter pertaining to situations of armed conflict. Increasingly human rights groups like Amnesty International and Human Rights Watch concern themselves with the part of the laws of war pertaining to civilians and detained fighters in war, not just with human rights standards in peace. So, human rights law and humanitarian law both focus on protecting human dignity. But they have separate legislative histories, and humanitarian law applies to armed conflict only.

Actions undertaken because persons have a legal right to them must be distinguished from actions undertaken because they are humane—whether persons are fundamentally entitled to the actions or not. For example, in the diplomacy of the Conference on Security and Co-operation in Europe during the Cold War, some families divided by the Iron Curtain were reunited in the name of humanitarianism. The objective was to achieve a humane outcome, sidestepping debates about a right to emigrate. Likewise, some foreign assistance is provided for victims of earthquakes and other natural disasters at least in part because of humane considerations, whether or not persons have a legal right to that international assistance.

A great many international actions are undertaken for mixed motives with various justifications. The Security Council authorized the use of force, in effect, to curtail starvation in Somalia. To some, this was a response to the codified human rights to life, adequate nutrition, and health care. To others, this was acting humanely to alleviate suffering. As we saw earlier, this expanded the concept of international security to include humanitarian threats so that the Security Council could respond with a binding decision. States used the United Nations to improve order and reduce starvation. Whether outside troops went into Somalia for reasons of human rights or humanitarian affairs was a theoretical distinction without operational significance.

In this section we refer mostly to "human rights." Sometimes we note that UN involvement in a situation is oriented toward humane outcomes, whether or not the language of human rights is employed. Internationally recognized human rights have been defined so broadly that one can rationalize almost any action designed to improve the human condition in terms of fundamental rights. Given the extent of violence in the world, those concerned about individuals in dire straits need to be aware of international humanitarian law for armed conflicts and the long effort to create humanitarian space in the midst of what belligerents call "military necessity." Other terms have come into play at the United Nations from time to time such as "human security" and "complex emergency." Regardless of terminology, the driving force behind many of these developments has been to protect or restore human dignity—meaning the fundamental value and worth of the human person.

UNDERSTANDING RIGHTS

Human rights are fundamental entitlements of persons, constituting means to the end of minimal human dignity or social justice. If persons have human rights, they are entitled to a fundamental claim that others must do, or refrain from doing, something. Under the Westphalian system of international relations, which the UN modifies but does not fundamentally contradict, states are primarily responsible for order and social justice in their jurisdictions. Their governments are the primary targets of these personal and fundamental claims. If an individual has a right to freedom from torture, governments are obligated to ensure that torture does not occur. If an individual has a right to adequate health care, governments are obligated to ensure that such health care is provided, especially to those who cannot afford it.

The legal system codifies what are recognized as human rights at any point in time. The legal system, of course, recognizes many legal rights. The ones seen as most fundamental to human dignity—that is, a life worthy of being lived—are called human rights. There is a difference between fundamental human rights and other legal rights that are perhaps important but not, relatively speaking, fundamental. This theoretical distinction between fundamental and important

rights can and does give rise to debate. Is access to minimal health care fundamental, and thus a human right, as the Canadian legal system guarantees? Or is that access only something that people should have if they can afford it, as the U.S. system implies? Why does the U.S. legal system recognize the legal right of a patient to sue a doctor for negligence but not allow that same person access to adequate health care as a human right?

The origin of human rights outside of codification in the legal system is also debated. Legal positivists are content to accept the identification of human rights as found in the legal system. But others, especially philosophers, wish to know what are the "true" or "moral" human rights that exist independently of legal codification. Natural law theorists, for example, believe that human rights exist in natural law as provided by a supreme being. Analytical theorists believe there are moral rights associated inherently with persons; the legal system only indicates a changing view of what these moral rights are.[9] According to Michael Ignatieff, we now have human rights at home and abroad not because of philosophy but because of history. If one reads history and notes the chronic abuse of individuals by public authorities, and if one notes that those societies that accept human rights do a better job of providing for the welfare of their citizens, that is sufficient justification for human rights.[10] The point to be stressed here is that despite this long-standing debate about the ultimate origin of human rights, many societies do come to some agreement about fundamental rights, writing them into national constitutions and other basic legal instruments. As we shall see, in international society there is formal agreement on what are universal human rights at the dawn of the twenty-first century.

International Origins

When territorial states arose and became consolidated in the middle of the seventeenth century, human rights were treated, if at all, as national rather than international issues. Indeed, the core of the 1648 Peace of Westphalia, designed to end the religious wars of Europe, indicated that the territorial ruler would henceforth determine the religion of the territory. In the modern language of rights, freedom of religion, or its absence, was left to the territorial ruler. The dominant international rule was what today we call state sovereignty. Any question of human rights was subsumed under that ordering principle.

Later, the Americans in 1776–1787 decided to recognize human rights, and the French in 1789 attempted to do so. These revolutions had no immediate legal effect, and sometimes no immediate political effect, on other countries. In fact, many non-Western peoples and their rulers were not immediately affected by these two revolutions, oriented as they were to definitions of what were then called "the rights of man." Many non-Western societies, such as China, continued to rely primarily on supposedly enlightened leaders for human dignity and social justice. Such leaders might be seen as limited by social or religious principles, but they were not widely seen as limited by personal rights.[11]

During the middle of the nineteenth century, the West was swept by a wave of international sentiment.[12] Growing international concern for the plight of persons without regard to nationality laid the moral foundations for a later resurrection and expansion of the notion of personal rights. Moral concern led eventually to an explosion in human rights developments even if the notion of human rights was not particularly resurrected then.[13] In some ways Marxism was part of this European-based transnational concern for the individual, since Karl Marx focused on the plight of the industrialized worker under early and crude capitalism. He was not a persistent and consistent champion of all individual rights, being especially critical of unbridled property rights.

Early Marxism had its moral dimensions about individual suffering. Two other moral or social movements occurred about the same time and are usually cited as the earliest manifestations of internationally recognized human rights. In the 1860s, about the time Marx wrote *Das Kapital*, a Swiss businessman named Henry Dunant started what is now called the International Red Cross and Red Crescent Movement. Dunant was appalled that in the battle of Solferino in 1859 in what is now Italy, which was entangled in the war for the Austrian succession, wounded soldiers were simply left on the battlefield.[14] Armies had no adequate medical corps. European armies had more veterinarians to care for horses than doctors to care for soldiers.[15] He envisioned what became national Red Cross societies, and these putatively private agencies not only geared up for practical action in war but also lobbied governments for new treaties to protect sick and wounded soldiers. In 1864 the first Geneva Convention for Victims of War was concluded, providing legal protection to fighters disabled in international war and the medical personnel who cared for them.[16] Today, the International Red Cross and Red Crescent Movement encompasses over 180 national Red Cross or Red Crescent societies, the associated but autonomous International Federation of Red Cross and Red Crescent Societies, and the independent International Committee of the Red Cross.

Any comparison between Marx and Dunant should not be pushed too far; Dunant was, after all, a Christian capitalist businessman, although not a very successful one. Yet both Marx and Dunant saw a widespread, international problem, and both devised (in very different ways) an international solution. Dunant and his successors in the Red Cross and Red Crescent Movement did not immediately use the language of human rights. They spoke in terms of governmental obligation to provide protection and assistance to victims of war. They spoke of the neutrality of medical services. Victims came to be defined not only as sick and wounded and captured combatants but also as civilians in a war zone or under military occupation. Eventually about twenty legal instruments came to be called international humanitarian law, or the law of human rights in armed conflict.

The antislavery movement was another nineteenth-century effort to identify and correct a problem of human dignity on an international basis. By 1890 in Brussels, all the major Western states finally signed a multilateral treaty prohibiting the African slave trade. This capped a movement that had started about the turn of the century in Britain. Just as private Red Cross organizations had pushed for protection and assistance for victims of war, so the London-based Anti-Slavery Society and other private groups pushed the British government in particular to stop the slave trade. Britain outlawed the trade in the first decade of the nineteenth century; obtained a broader, similar international agreement at the Congress of Vienna in 1815; and thereafter used the British navy to try to enforce its ban on the slave trade.

The early resistance by the United States and other major slave-trading states was overcome by the end of the century. Yet an international agreement on principles and applications, reaching deeply into the European colonies in Africa, was necessary to significantly reduce this long-accepted and lucrative practice. In the twentieth century freedom from slavery, the slave trade, and slavery-like practices came to be accepted as an internationally recognized human right. Its roots lay in the transnational morality of the nineteenth century.

This trend of focusing on human need across national borders increased during the League of Nations era, although most efforts met with less than full success in an era of fascism, militarism, nationalism, racism, and isolationism. The Versailles conference in 1919 represented efforts to write into the League of Nations Covenant rights to religious freedom and racial equality. The British even proposed a right of outside intervention into states to protect religious freedom. These proposals failed largely because of Woodrow Wilson. Despite a Japanese push for the endorsement of racial equality, the U.S. president was so adamantly against any mention of race that U.S. and British proposals on religious freedom were withdrawn.[17] During the 1930s the League's Assembly debated the merits of an international agreement on human rights in general, but French and Polish proposals to this effect failed. Some states were opposed in principle, and some did not want to antagonize Nazi Germany, given the prevailing policy of accommodation or appeasement. Nevertheless, the language of universal human rights was appearing more and more in diplomacy.

More successful were efforts to codify and institutionalize labor rights. Whether to undercut the appeals of Marxist revolution or to reflect Marxist concern for labor's plight, the International Labour Organization (ILO) was created and based in Geneva alongside the League. Its tripartite membership consisted of government, labor, and management delegations from each member state. This structure was conducive to the approval of a series of treaties and other agreements recognizing labor rights, as well as to the development of mechanisms to monitor state practice under the treaties. The ILO thus preceded the United Nations but continued after 1945 as a UN specialized agency. It was one of the first international organizations to monitor internationally recognized rights within states.[18]

Although the Covenant of the League of Nations—the equivalent of the UN's Charter—failed to deal with human rights in general, its Article 23 did indicate

that the League should be concerned with social justice. In addition to calling for international coordination of labor policy, Article 23 called on member states to take action on such matters as "native inhabitants," "traffic in women and children," "opium and other dangerous drugs," "freedom of communications," and "the prevention and control of disease." Precise standards, however, were decidedly lacking in these issue-areas.

The League of Nations was connected to the minority treaties designed for about a dozen states after World War I in an effort to curtail the ethnic passions that had contributed to the outbreak of the Great War in the Balkans. Only a few states were legally obligated to give special rights to minorities. The system of minority treaties did not function very well under the acute nationalist pressures of the 1930s. So dismal was the League record on minority rights that global efforts at minority protection per se were not renewed by the United Nations until the 1980s—a gap of about fifty years. One UN agency carried the name of Sub-Commission on Protection of Minorities but did not take up the question of minority protection for some four decades. The minority treaties provided some useful experience. For instance, under certain treaty provisions individuals could directly petition the League Council, the organization's most important body, for redress of alleged treaty violations. Ironically, in 1933 the Nazis paid some compensation for early anti-Semitism, responding to individual petitions under this system.[19]

Also, the League mandate system sought to protect the welfare of dependent peoples. The Permanent Mandates Commission supervised the European states that controlled certain territories taken from the losing side in World War I. Those European states were theoretically obligated to rule for the welfare of dependent peoples. Peoples in "A" mandates were supposed to be allowed to exercise their collective right to self-determination in the relatively near future. The Permanent Mandates Commission was made up of experts named by the League Council, and it established a reputation for integrity—so much so that the controlling states regarded it as a nuisance. There was some exercise of the right of individual petition, and the commission publicized some of the shortcomings from the policies of mandatory powers.[20]

In other ways, too, the League of Nations tried to promote humane values—a synonym for social justice. It was concerned with human dignity, even if it did not often use the specific language of human rights. In some cases it sought to improve the situation of persons without actually codifying their rights. In so doing it laid the foundation for later rights developments. For example, the League of Nations Refugee Office sought to help refugees, which was useful in 1951 when the UN sponsored a treaty on refugee rights and established the UNHCR.

The increased interaction among peoples—no doubt produced by changes in travel and communications technology that had also led to the first experiments with international institutions in the nineteenth century[21]—led in time to an increased moral solidarity or concern for human dignity across borders. War victims increasingly were seen as entitled to certain humane treatment regardless of

nationality. Slavery and the slave trade were seen as wrong regardless of what nationalities were involved. Labor was seen as needing protective regulation regardless of where the factory or shop was located. Minorities in more than one state were seen as being victimized. Developed states accepted a vague obligation to the League to rule at least some dependent territories for the good of the inhabitants. Refugees came to be seen as presenting common needs, wherever they might be found.

These and other developments in the late nineteenth and early twentieth centuries expressed "an epochal shift in moral sentiment."[22] The growing "moral interdependence" was to undergird the creation of human rights "regimes" in the UN era.[23] This moral solidarity was not cohesive enough to eradicate many of the ills addressed. How could it be when in the 1930s, some major states (Germany, Italy, and Japan) were glorifying brutal power at the service of particular races or nationalities? And one major state (the Soviet Union) had an extensive record of brutal repression and exploitation within its borders? And another major state (the United States) refused to put its putative power at the service of systematic international cooperation? Moreover, the United States engaged in its own version of apartheid (namely, legally sanctioned racial discrimination) as well as blatantly racist immigration laws. Thus, while a shift occurred toward a cosmopolitan morality that tended to disregard national boundaries and citizenship, a "thick morality" still centered on national communities and was subject to the disease of chauvinistic nationalism. "Thin morality" was left for international society. Prevailing "wisdom" was that governments existed to pursue the national interest, whereas attention to the plight of others abroad was a distinctly secondary consideration.

Legal and organizational developments during the League of Nations era were more important as historical stepping-stones than as durable solutions in and of themselves. It might be said that international moral solidarity was strong enough to create certain laws, agreements, and organizations. But states lacked sufficient political will to make these legal and organizational arrangements function effectively. Compassion did not always fit well with traditional *raisons d'état*.[24]

When the United Nations was created in 1945, a growing corpus of legal and organizational experience existed that the international community could draw on in trying to improve international order and justice. By 1948, the conventional wisdom held that internationally recognized human rights would have to be reaffirmed and expanded, not erased. The UN would have to devise better ways of improving human dignity, through both law and organization.

BASIC NORMS IN THE UN ERA

All the difficulties faced by the international community during the League period in trying to deal with the violation of human rights, European fascism, and Asian militarism had convinced the founders of the UN that renewed attention

should be directed to the safeguarding of human rights. This determination to write human rights into the UN Charter, which had not been done in the League's Covenant, actually preceded widespread knowledge about the extent of the Holocaust in areas under Nazi control.[25] This renewed attention to fundamental individual rights, therefore, was less a reaction to specific knowledge about German (and Japanese) atrocities and more a culmination of changing opinion that had gained momentum in the 1940s. Intellectual opinion in Britain and the United States pushed for an endorsement of human rights as a statement about the rationale for World War II. Franklin D. Roosevelt had stressed the importance of four freedoms, including freedom from "want." A handful of Latin American states joined in this push to emphasize human rights as a statement about civilized nations. Eleanor Roosevelt became an outspoken champion of human rights in general and women's rights in particular. In the UN Human Rights Commission, however, which Eleanor Roosevelt chaired in the 1940s, the most outspoken advocate for women's rights was the Indian representative, Hansa Mehta.

The Truman administration, under pressure from both NGOs and concerned Latin American states, and unlike the Wilson administration in 1919, agreed to a series of statements on human rights in the Charter and successfully lobbied the other victorious great powers. This was not an easy decision for the Truman administration, particularly given the continuation of legally sanctioned and widely supported racial discrimination within the United States. Whether the Truman administration was genuinely and deeply committed to getting human rights into the Charter[26] or whether it was pushed in that direction by others[27] remains a point of historical debate. Franklin D. Roosevelt had become convinced that the origins of World War II lay in the denial of human rights in fascist Europe and imperial Japan, and Harry Truman accepted this interpretation. Various other states and NGOs expanded the references to human rights in the UN Charter, but without changing the U.S. position that this human rights language would remain general and judicially unenforceable.[28]

Why Joseph Stalin accepted these human rights statements is not clear, especially given the widespread political murder and persecution within the Soviet Union in the 1930s and 1940s. Perhaps the Soviet Union saw this human rights language as useful in deflecting criticism of Soviet policies, particularly since the Charter language was vague and not immediately followed by specifics on application. Perhaps Stalin saw the language of rights as useful in his attempt to focus on socialism—that is, one might accept the general wording on rights if one intended to concentrate only on social and economic rights.[29] This would not be the last time the Soviet Union underestimated the influence of language written into international agreements. The 1975 Helsinki Accord, and especially its provisions on human rights and humanitarian affairs, generated pressures that helped weaken European communism. The Soviet Union initially resisted human rights language in the Helsinki Accord, but it eventually accepted that

language in the mistaken notion that the codification and dissemination of human rights would not upset totalitarian control.[30]

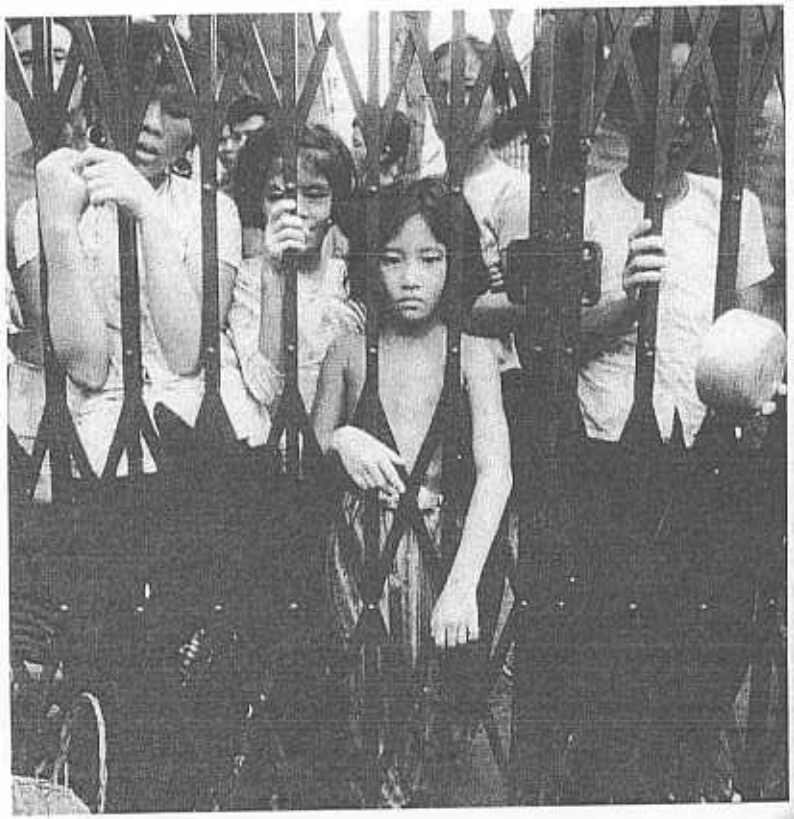
The United Kingdom accepted the Charter language on human rights with the understanding that it would not be applied in British colonies. For Winston Churchill, who had helped author ringing pronouncements about human rights during the Second World War to highlight enemy atrocities, the British Empire should continue, with all that it implied about an unequal status for nonwhite peoples. In this view, he was not dissimilar from the American Founding Fathers in the eighteenth century, whose proclamations about human rights were not intended for women, slaves, or Native Americans. The 1945 Charter statements on human rights, although more progressive than some had originally wanted, were vague. Nevertheless, they provided the legal cornerstone or foundation for a later legal and diplomatic revolution. The Charter's preamble states that a principal purpose of the UN is "to affirm faith in fundamental human rights." In Article 1, the Charter says that one of the purposes of the organization is to promote and encourage "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion." In Article 55, the Charter imposes on states these legal obligations:

> With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:
>
> A. higher standards of living, full employment, and conditions of economic and social progress and development;
>
> B. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
>
> C. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

This was followed by Article 56, under which "all Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55."

The language of Article 55 endorses the notion of human rights because they were linked to international peace and security. Western democracies believed that states respecting human rights in the form of civil and political rights would not make war on others. In this view, brutal authoritarian states, those that denied civil and political rights, were inherently aggressive, whereas democracies were inherently peaceful. At the same time, many accepted the notion of human rights by seeing them as a means to human dignity, not necessarily or primarily as a means to social peace.

Both motivations drove the diplomatic process regarding human rights in 1945. Some policymakers genuinely saw human rights as linked to peace, and



Vietnamese refugees in a detention area of Phnom Penh, Cambodia, 1992. (UN Photo 125271/J. Robaton)

others may have accepted that rationale as a useful justification while believing that one should promote and protect human rights for reasons of human dignity disconnected from questions of peace and war. Motivation and justification are not the same,[31] but in reality separating the two is difficult. The relationship between human rights and peace has intrinsic importance to world politics. A clear correlation between at least some human rights and peace has importance not only for a direct and "micro" contribution to human dignity but to human dignity in a "macro" sense by enhancing international—and perhaps national—security and stability by eliminating major violence.

Much research has been directed to the question of the connection between various human rights and international and national peace—with peace being defined as the absence of widespread violence between or within countries. The following five statements accurately summarize some of that voluminous research. First, liberal democratic governments (those that emerge from, and thereafter respect, widespread civil and political rights) tend not to engage in international war with one other.[32] Documenting international war between or among democracies is difficult, and some scholars believe that the absence of war is not because of democracy. The United Kingdom and the United States fought in 1812, but one scholar holds that because of the severely limited franchise, the United States did not become a democracy until the 1820s and Britain not until the 1830s.[33] The debate about threshold conditions for democracy continues today. One view is that the United States did not become a democracy until women, 50 percent of the population, gained the franchise. In the American Civil War, the Union and the Confederacy both had elected presidents, but the Confederacy was not recognized as a separate state by many outsiders, and it also severely restricted the voting franchise. At the start of World War I, Germany manifested a very broad franchise, but its parliament lacked authority and its kaiser went unchecked in making much policy. Even though some scholars think the historical absence of war between democracies is either a statistical accident or explicable by security factors, other scholars continue to insist that liberal democracies do not make war on each other.[34]

Second, liberal democratic governments have used covert force against other elected governments that are not perceived to be truly in the liberal democratic community. The United States during the Cold War used force to overthrow some elected governments in developing countries—for example, Iran in 1953 (Mohammed Mossadeq was elected by Iran's parliament), Guatemala in 1954 (Jacobo Arbenz Guzmán was genuinely if imperfectly elected in a popular vote), Chile in 1973 (Salvador Allende won a plurality), and Nicaragua after 1984 (some international observers regarded Daniel Ortega as genuinely if imperfectly elected).[35] Several democracies used force to remove the Patrice Lumumba government in the Congo in the 1960s; those elections, too, were imperfect but reflected popular sentiment.[36]

Third, some industrialized liberal democratic governments seem to be war-prone and clearly have initiated force against authoritarian governments. Britain, France, and the United States are among the most war-prone states, owing perhaps to their power and geography. Liberal democratic governments initiated hostilities in the Spanish-American War of 1898 and the Suez crisis of 1956, not to mention U.S. use of force in Grenada and Panama in the 1980s, or in Iraq in 2003.

Fourth, human rights of various types do not correlate clearly and easily with major national violence such as civil wars and rebellions.[37] In some of these situations a particular human rights issue may be important—for example, slavery in the American Civil War, ethnic and religious persecution in the Romanian violence of 1989, and perceived ethnic discrimination in contemporary Sri Lanka. But in other civil wars and similar intranational violence, human rights factors seemed not to be a leading cause—for example, the Russian civil war of 1917 and the Chinese civil war in the 1930s. The Universal Declaration of Human Rights presents itself, in part, as a barrier to national revolution against repression. This

Eleanor Roosevelt holding a Universal Declaration of Human Rights poster. (UN/DPI Photo 23783)

follows the Jeffersonian philosophy that if human rights are not respected, revolution may be justified. But this linkage between human rights violations and national violence is difficult to verify as a prominent and recurring pattern. A number of repressive and exploitative governing arrangements have lasted for a relatively long time. And various rights-protective governments have yielded under violent pressure to more authoritarian elites.

Fifth, armed conflict seems clearly to lead to an increase in human rights violations.[38] If some uncertainty remains about whether liberal democracy at home leads to a certain peace abroad, a reverse pattern does not seem open to debate. When states participate in international and internal armed conflict, there is almost always a rise in violations of rights of personal integrity and an increase in forced disappearance, torture, arbitrary arrest, and other violations of important civil rights. Human rights may or may not lead to peace, but peace is conducive to enhanced human rights.

CORE NORMS BEYOND THE CHARTER

The UN Charter presented the interesting situation of codifying a commitment to human rights before there was an international definition or list of human rights. To answer the question of what internationally recognized human rights

states are obligated to apply, the United Nations in its early years made an effort to specify Charter principles. On December 10, 1948—December 10 is now recognized as International Human Rights Day—the General Assembly adopted the Universal Declaration of Human Rights without a negative vote (but with eight abstentions: the Soviet Union and its allies, Saudi Arabia, and South Africa). This resolution, not legally binding at the time of adoption, listed thirty human rights principles covering perhaps sixty rights. They fell into three broad clusters.[39]

First-generation negative rights are the individual civil and political rights that are well-known in the West. They are called "first-generation" because they were the ones first endorsed in national constitutions and called "negative" because civil rights in particular blocked public authority from interfering with the private person in civil society. These were the rights to freedom of thought, speech, religion, privacy, and assembly—plus the right to participate in the making of public policy. In the view of some observers, these are the only true human rights. In the view of others, these are the most important human rights because if one has civil and political rights one can use them to obtain and apply the others. In the view of still others, these rights are not so important because if one lacks the material basics of life such as food, shelter, health care, and education, then civil and political rights become meaningless.

Second-generation positive rights are socioeconomic rights.[40] They are called "second-generation" because they were associated with various twentieth-century revolutions emphasizing a redistribution of the material benefits of economic growth, and "positive" because they obligate public authority to take positive steps to ensure minimal food, shelter, and health care. European states and Canada have enshrined these rights in their welfare states, and these rights have been rhetorically emphasized in many developing countries. How important these rights are is still a matter of debate. In the United States, the Democratic Carter and Clinton administrations accepted them in theory and gave them some rhetorical attention. Republican administrations from Ronald Reagan to George W. Bush rejected them as dangerous to individual responsibility and leading to big government.

Third-generation solidarity rights are the rights emphasized by some contemporary actors. They are called "third-generation" because they followed the other two clusters and also are called "solidarity" because they pertain to collections of persons—for instance, indigenous peoples—rather than to individuals. Later formulations have included claims to a right to peace, development, and a healthy environment as the common heritage of humankind. In some national law, groups receive formal recognition. Some minorities are guaranteed a certain number of seats in parliament. Other peoples are recognized as holding collective title to land. Whether some of these group arrangements should be called collective human rights of universal validity remains controversial.

One collective right, a people's right to self-determination, has been much discussed, especially since the end of World War II. The principle of national

self-determination is recognized as the first article in both the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. Thus the collective right to self-determination is cast in modern times as a human right. It is clear, however, that this general principle has not been translated into specific rules indicating which group is a national people with this right, and which not. Also lacking is a clear indication of what self-determination means, and the options range from various forms of internal autonomy to full independence. Unfortunately most claims to self-determination are resolved by politics, including violent politics, rather than peaceful change under judicial supervision.

Parsing rights into several categories or "generations" is perhaps useful to summarize developments, but analytical care is necessary. To apply negative rights, positive action must be taken. States must develop legislation to protect civil and political rights and spend billions each year to see that they are respected. Second-generation socioeconomic rights were emphasized by the Catholic Church as well as by the state of Ireland and various Latin American states. Collective rights can also pertain to individuals. Moreover, they are not so new. The right to national self-determination is actually a right of peoples or nations that has been (a vague) part of international law for decades.

A prevalent view, articulated nicely by Mary Robinson, the former president of Ireland who stepped down in September 2002 as the high commissioner for human rights, is that all of the generations should be viewed as a "package" of rights.[41] Her position reflected votes in the General Assembly stating that all internationally recognized rights were important and interdependent. At the same time, however, the Security Council created international criminal tribunals for the former Yugoslavia and Rwanda with legal jurisdiction for genocide, war crimes, and crimes against humanity. This suggested that the right to be free from these violations was more important or more basic. UN member states created the International Criminal Court with the same focus. The structure of the International Covenant on Civil and Political Rights suggests that even within that category of rights some rights are core, permitting no violation even in national emergencies, while other rights can be suspended in exceptional times. All of this leads to much debate about whether there should be some prioritizing of rights action.[42]

The United States is an outlier among states that traditionally support human rights. It has not ratified three of seven core treaties—the ones protecting economic, cultural, and social rights, children's rights, and eliminating discrimination against women. Within the Group of 7 (G-7), the United States is the only country that has not ratified any of these. Moreover, even when ratifying human rights treaties like the Convention on the Prevention and Punishment of the Crime of Genocide and the Covenant on Civil and Political Rights, the United States adds reservations and other statements that prevent the treaties from having domestic effect. As a former State Department lawyer has noted, it is very difficult to get international law introduced into courts within the United States.[43]

As already noted, three years after the UN Charter came into legal effect, the General Assembly agreed on a list of human rights principles as a statement of aspirations. No state voting for the Universal Declaration of Human Rights succeeded in meeting all its terms through national legislation and practice. This vote was the homage that vice paid to virtue. This would not be the last time that state diplomacy presented a large measure of hypocrisy. Yet it is clear that most contemporary states want to be associated with the notion of human rights. Of 192 member states, 154 had accepted the civil-political covenant by May 2006, and 151 the economic-social-cultural covenant.

Since 1948, the Universal Declaration of Human Rights has acquired a status far beyond that of a normal or regular General Assembly recommendation. Some national courts have held that parts of the declaration have passed into customary international law and thus became legally binding (e.g., the declaration's Article 5, prohibiting torture). Some authorities and publicists believe the entire declaration is now legally binding, whereas others say that only parts of it are. The International Court of Justice in The Hague has not rendered an opinion on this question,[44] and so the overall legal status of the declaration is unclear.

The broad impact of the declaration is, nonetheless, considerable. Its principles have been endorsed in numerous national constitutions and other legal and quasi-legal documents. All the new or newly independent European states that once had communist governments accepted its principles in theory in the 1990s. Of the eight states abstaining in 1948, seven had renounced their abstention by 1993. Only Saudi Arabia continued to object openly to the declaration. Even China, despite its repressive policies and government, issued statements accepting the abstract validity of the universal declaration.

Having adopted the declaration, UN member states turned to an even more specific elaboration of internationally recognized human rights. The decision was made to negotiate two separate core human rights treaties, one on civil and political rights and one on social, economic, and cultural rights. This was not done only, or even primarily, because of theoretical or ideological differences among states. The different types of rights also were seen as requiring different types of follow-up. A widely held view was that civil-political rights could be implemented immediately, given sufficient political will, and were enforceable by judicial proceedings. By comparison, socioeconomic rights were seen as requiring certain policies over time, as greatly affected by economic and social factors, and hence as not subject to immediate enforcement by court order. As mentioned earlier, the more recent approach within the United Nations, in the General Assembly and elsewhere, is to blur distinctions and consider rights comprehensively.

By 1956 two UN covenants, or multilateral treaties, were essentially complete on the two clusters of rights. By 1966 they were formally approved by states voting in the General Assembly, the time lag indicating that not all states were enthusiastic about the emergence of human rights treaties limiting state

The Palais des Nations, UN Office at Geneva. (UN/DPI Photo/P. Klee)

sovereignty. By 1976 a sufficient number of state adherences had been obtained to bring the treaties into legal force by parties giving their formal consent. Few followed the example of the United States of accepting one but rejecting the other (the United States became a party to the civil-political covenant in 1992, with reservations, but not to the socioeconomic covenant). Most states accepted both covenants.

By 2005 more than fifty states (not including the United States) had agreed that their citizens had the right to petition the UN Human Rights Committee (after exhausting national efforts) alleging a violation of the civil-political covenant by a government. The Human Rights Committee was made up of individual experts, not governmental representatives. It was not a court but a "monitoring mechanism" that could direct negative publicity toward an offending and recalcitrant government. It worked to prod governments toward fulfilling their international commitments. All states that accepted the socioeconomic covenant were automatically supervised by a UN Committee of Experts. After a slow start, that committee, too, began a systematic effort to persuade states to honor their commitments. The mechanisms of both committees are treated below.

These three documents, the 1948 Universal Declaration of Human Rights and the two 1966 UN covenants, make up what was not included in the UN's Charter: an International Bill of Rights, or a core list of internationally recognized human rights that would have similar status to the Bill of Rights in the U.S. Constitution. Most of the treaty provisions are clarifications of, and elaborations on, the thirty norms found in the declaration. There are a few discrepancies. The declaration notes a right to private property, but this right was not codified in the two

covenants. After the fall of European communism, the General Assembly on several occasions returned to a recognition of property rights. As already noted, there was a broad and formal acceptance of this International Bill of Rights, even though there is no such official label or document. At the same time, a number of governments were tardy in filing reports with both the Human Rights Committee under the civil-political covenant and the Committee of Experts under the socioeconomic covenant. But from either 1966 or 1976, depending on which date is emphasized, there was a core definition of universal human rights in legally binding form with a monitoring process designed to specify what the treaties meant.

SUPPLEMENTING THE CORE

During most of the UN era, states were willing to endorse abstract human rights. But until the 1990s, they were not willing to create specialized human rights courts—or even to make the global treaties enforceable through national courts. In the next chapter we address the establishment of ad hoc international criminal tribunals for the former Yugoslavia and Rwanda and the International Criminal Court (ICC) with broad jurisdiction, as well as the Pinochet case from Chile involving national action concerning torture and other crimes against humanity. Traditionally, in the absence of dependable adjudication, states tried to reinforce the International Bill of Rights, while protecting their legal independence, by negotiating more human rights treaties. This is a way to bring diplomatic emphasis to a problem, to raise awareness of a problem, or to further specify state obligation in the hopes that specificity will improve behavior. The process is similar to some aspects of national law. In the United States, if the Congress is dissatisfied with executive performance under a law, rather than seek adjudication in the courts, an action that frequently is unproductive, the Congress will pass a more specific follow-up law.[45]

As of 2006, about 100 international human rights instruments exist. These include conventions, protocols, declarations, codes of conduct, and formal statements of standards and basic principles. Table 5.1 summarizes part of the situation. Despite overlap and duplication, the United Nations has seen the emergence of treaties on racial discrimination, apartheid, political rights of women, discrimination against women, slavery, the slave trade and slavery-like practices, genocide, hostages, torture, the nationality of married women, stateless persons, refugees, marriage, prostitution, children, and discrimination in education. The International Labour Organization has sponsored treaties on forced labor, the right to organize, and rights to collective bargaining, among others.

Regional human rights treaties fall outside the domain of the UN, as do some treaties on human rights in armed conflict that are sponsored by the International Committee of the Red Cross and Switzerland, the latter being the official depository for what is called "international humanitarian law" (IHL). So diplomatic events that technically fall outside the UN, especially related to IHL, unfolded

TABLE 5.1 UN Human Rights Conventions, December 2005

Convention (grouped by subject)	*Year Opened for Ratification*	*Year Entered into Force*	*Number of Parties*
General Human Rights			
International Covenant on Civil and Political Rights	1966	1976	154
Optional Protocol to the International Covenant on Civil and Political Rights (private petition)	1966	1976	105
Second Optional Protocol to the International Covenant on Civil and Political Rights (abolition of death penalty)	1989	1991	56
International Covenant on Economic, Social and Cultural Rights	1966	1976	151
Racial Discrimination			
International Convention on the Elimination of All Forms of Racial Discrimination	1966	1969	170
International Convention on the Suppression and Punishment of the Crime of Apartheid	1973	1976	106
International Convention Against Apartheid in Sports	1985	1988	59
Rights of Women			
Convention on the Political Rights of Women	1953	1954	115
Convention on the Nationality of Married Women	1957	1958	70
Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages	1962	1964	49
Convention on the Elimination of All Forms of Discrimination Against Women	1979	1981	180
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (communication procedures)	1999	2000	74
Slavery and Related Matters			
Slavery Convention of 1926, as amended in 1953	1953	1955	95
Protocol Amending the 1926 Slavery Convention	1953	1953	59
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	1956	1957	119
Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others	1950	1951	74

TABLE 5.1 (*continued*)

Convention (grouped by subject)	*Year Opened for Ratification*	*Year Entered into Force*	*Number of Parties*
Refugees and Stateless Persons			
Convention Relating to the Status of Refugees	1951	1954	140
Protocol Relating to the Status of Refugees (extends time of original convention)	1967	1967	138
Convention Relating to the Status of Stateless Persons	1954	1960	54
Convention on the Reduction of Statelessness	1961	1975	26
Other			
Convention on the Prevention and Punishment of the Crime of Genocide	1948	1951	138
Convention on the International Right of Correction	1952	1962	15
Convention on the Non-Applicability of Statutory Limitations of War Crimes and Crimes Against Humanity	1968	1970	49
Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment	1984	1987	141
Convention on the Rights of the Child	1989	1989	192
Optional Protocol to the Convention on the Rights of the Child (on the Involvement of Children in Armed Conflict)	2000	2002	104
Optional Protocol to the Convention on the Rights of the Child (on the Sale of Children, Child Prostitution, and Child Pornography)	2000	2002	101

similarly in further specifying international standards on human rights and humanitarian affairs. IHL sought to protect human dignity in armed conflicts, just as human rights law sought to protect human dignity more generally.[46]

In 1949 the international community of states adopted four conventions for victims of war. Initially drafted by the ICRC, the Geneva Conventions of August 1949 sought to codify and improve on the humanitarian practices undertaken during World War II. For the first time in history, a treaty was directed to the rights of civilians in international armed conflict and in occupied territory resulting from armed conflict. Each of the four Geneva Conventions of 1949 contained an article (hence Common Article 3) that extended written humanitarian law into internal armed conflict. The ICRC, although technically a Swiss private association, was given the right in public international law to see detainees resulting from international armed conflict.[47] And for the first time in history, civilians in occupied territory were given a right to humanitarian assistance.

This body of humanitarian law, from one point of view the international law for human rights in armed conflict, was further developed in 1977 through two

protocols (or additional treaties): Protocol I for international armed conflict and Protocol II for internal armed conflict. Normative standards continued to evolve. For example, for the first time in the history of warfare, Protocol I prohibited the starvation of civilians as a legal means of warfare. Protocol II represented the first separate treaty on victims in internal war.

As already mentioned, in 2005 Additional Protocol III was added, regulating neutral emblems for aid societies. Among its practical effects was allowing the official Israeli aid society, Magen David Adom, to be recognized into the International Red Cross and Red Crescent Movement. Before, since MDA used the Red Shield of David as its emblem, it could not be officially recognized by the ICRC or admitted into the Federation of Red Cross and Red Crescent Societies. For many states, what was at issue in all this was indirect recognition of the legitimacy of the state of Israel through accommodation of its official aid society. For that reason, Protocol III was approved not by consensus but by contested vote. The Protocol allowed use of a Red Crystal, in addition to the Red Cross and Red Crescent, as approved neutral emblems, to which national emblems could be added. Thus MDA could now use the Red Crystal, devoid of religious or historical significance, along with its red six-sided star. Such were the complications when humanitarian considerations collided with state strategic calculation.

Regional human rights developments are noteworthy. A regional human rights regime was created in Western Europe, and it served as an excellent model for the international protection of human rights. The European Convention on Human Rights and Fundamental Freedoms defined a set of civil and political rights. The European Commission on Human Rights served for a time as a collective conciliator, responding to state or private complaints to seek out-of-court settlements. The European Court of Human Rights existed to give binding judgments about the legality of state policies under the European Convention on Human Rights.

All states in the Council of Europe bound themselves to abide by the convention. All governments allowed their citizens to have the right of individual petition to the commission, a body that could then—failing a negotiated agreement—take the petition to the European Court of Human Rights. All states eventually accepted the supranational authority of the court. Its judgments holding state policies illegal were voluntarily complied with by member states. Such was the political consensus in support of human rights within the Council of Europe. This regional international regime for human rights functioned through international agencies made up of uninstructed individuals rather than state officials—although there was also a Committee of Ministers made up of state representatives.

In the mid-1990s, Council of Europe members progressively moved toward giving individuals standing to sue in the European Court of Human Rights without having the commission represent them. Thus an individual would have almost the same legal "personality" or status in the court as a state. Persons came

to acquire both substantive and procedural rights of note, a distinctive feature, since formerly it was possible to present a case—or have full "personality," in the language of international lawyers—only as a state.

In fact, the European system for the international protection of civil and political rights under the European Human Rights Convention generated such a large number of cases that, to streamline procedure, the commission was done away with. Individuals were allowed to proceed directly to a lower chamber of the International Court for an initial review of the admissibility of their complaint. If the complaint met procedural requirements, the individual could then move on to the substantive phase, basically on an equal footing with state representatives. (There were other regional human rights regimes in the Western Hemisphere and Africa, but they did not match the West European record in successfully protecting human rights.)

The details of the European situation merit review because they show that "muscular," supranational, effective protection of human rights is possible in international relations when there is sufficient political will. Unfortunately the European situation also shows how far the UN system has to go before it can provide the same sort of human rights regime. Popular and state commitment to the serious protection of human rights is much greater in Europe than is true on a global basis. Possibilities at the UN are determined by this factor.

A number of supplemental human rights treaties are in varying stages of negotiation at the United Nations at the time of writing, including those on indigenous peoples and minorities. A collective right to development has been declared by various UN bodies, including the General Assembly, and may become the subject matter of a treaty.

Diplomatic activity concerning setting human rights standards internationally has expanded greatly. A sizable, and still expanding, part of international law deals with human rights. Human rights have been formally accepted as a legitimate part of international relations. Most states do not oppose these normative developments in the abstract—that is, they do not dispute that international law should regulate the rights of persons even when persons are within states in "normal" times. This generalization also pertains to international or internal armed conflict, and to public emergency—although some rights protections can be modified in these exceptional situations. Virtually all states are parties to the 1949 Geneva Conventions. The United Nations clearly is acting within accepted bounds in establishing human rights standards. For ease of reference, Table 5.1 contains a list of human rights that are generally accepted as protected under international law.

One of the themes that appear in Part Three of this volume is globalization, which means many things to many people but represents a powerful challenge to integrating human rights more effectively into efforts to ensure a values-led globalization process. Upon her resignation from the UN, former high commissioner for human rights Mary Robinson founded Realizing Rights—Ethical Globalization Initiative to pursue her agenda.[48] The progressive integration of economies and

societies, a helpful definition formed by the ILO's World Commission on the Social Dimensions of Globalization,[49] has generated uneven benefits. While an academic debate continues about whether globalization is new,[50] its costs are borne unevenly. Future human rights challenges include the need for global policies to address a host of problems, including human rights, that emerge from such global problems as transnational criminal and terrorist activities, human trafficking, and HIV/AIDS. Secretary-General Kofi Annan launched the Global Compact, an effort to get powerful multinational corporations to pledge to respect human rights along with other standards that pertain to protecting the environment and reducing corruption.

The Permanent Court of International Justice said in the early 1920s that what is international and what is domestic changes with the changing nature of international relations.[51] The UN era has clearly seen the shrinking of the zone of exclusive or essential domestic jurisdiction. Article 2 (7) mandates that the UN shall not "intervene" in matters "essentially" within the domestic jurisdiction of states. The diplomatic record confirms, however, that many human rights matters are no longer viewed by most states as essentially within domestic jurisdiction. Certainly the establishment of international standards on human rights cannot logically be considered an unlawful intrusion into state internal affairs. And as noted in Part One and as will be confirmed in the next chapter, if the Security Council decides that international peace and security are threatened, even internationally approved "intervention"—in the sense of coercive economic and military action—can be taken to rectify massive human rights violations under the doctrine of "the responsibility to protect."

As the extensive standard-setting activity of the UN in particular has made clear, at least in legal theory, human rights have been internationalized. Beyond standard setting, an answer is emerging to the ancient question: *Quis custodiet ipsos custodes?* (Who shall guard the guardians?) In the field of human rights, the United Nations will supervise governmental policy against the background of global norms.

NOTES

1. Dana Priest and Barton Gellman, "For CIA Suspects Abroad, Brass-Knuckle Treatment," *Washington Post*, December 27, 2002. This article generated virtually no reaction in official Washington. Compare "Is Torture Ever Justified?" *The Economist*, January 11–17, 2003. Harvard University law professor Alan Dershowitz defended some use of torture in a debate with Kenneth Roth of Human Rights Watch on NBC, *Today Show*, March 4, 2003.

2. Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Princeton: Princeton University Press, 2005).

3. See Kenneth Roth, "Getting Away with Torture," *Global Governance* 11, no. 3 (2005): 389–406. This is an underlying theme in a series of essays in Thomas G. Weiss, Margaret E. Crahan, and John Goering, eds., *Wars on Terrrorism and Iraq: Human Rights, Unilateralism, and U.S. Foreign Policy* (London: Routledge, 2004).

4. Sarah Zaidi and Roger Normand, *The UN and Human Rights Ideas: The Unfinished Revolution* (Bloomington: Indiana University Press, forthcoming).

5. Tom J. Farer, "The UN and Human Rights: More Than a Whimper, Less Than a Roar," in Adam Roberts and Benedict Kingsbury, *United Nations, Divided World*, 2nd ed. (New York: Oxford University Press, Clarendon Paperback, 1993), 129.

6. For an overview, see Julie A. Mertus, *The United Nations and Human Rights* (London: Routledge, 2005).

7. For a discussion of this session in the broader one of such meetings, see Michael G. Shechter, *United Nations Global Conferences* (London: Routledge, 2005), 128–134.

8. This debate often went under the label of "East Asian values." See Joanne R. Bauer and Daniel A. Bell, eds., *The East Asian Challenge for Human Rights* (Cambridge: Cambridge University Press, 1999.)

9. Jack Donnelly, *Universal Human Rights in Theory and Practice*, 2nd ed. (Ithaca, N.Y.: Cornell University Press, 2003), 7–21.

10. Michael Ignatieff, *Human Rights As Politics and Idolatry* (Princeton: Princeton University Press, 2001).

11. The idea of human rights was a Western invention in both theory and practice, but ethical considerations from many cultures affected European and North American thought. See Micheline R. Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era* (Berkeley: University of California Press, 2004).

12. John F. Hutchinson, "Rethinking the Origins of the Red Cross," *Bulletin of Historical Medicine* 63: 557–578. See also his *Champions of Charity: War and the Rise of the Red Cross* (Boulder, Colo.: Westview Press, 1996).

13. Jan Herman Burgers, "The Road to San Francisco: The Revival of the Human Rights Idea in the Twentieth Century," *Human Rights Quarterly* 14, no. 2 (1992): 447–478.

14. For discussion of the ICRC's history and impact, see David P. Forsythe, *The Humanitarians: The International Committee of the Red Cross* (Cambridge: Cambridge University Press, 2005).

15. François Bugnion, *Le Comité International de la Croix-Rouge et la protection des victims de la guerre* (Geneva: ICRC, 1994). An English edition exists. For an overview, see Edwin M. Smith, "The Law of War and Humanitarian War: A Turbulent Vista," *Global Governance* 9, no.1 (2003): 115–134.

16. To be exact, according to a third protocol added to the 1949 Geneva Conventions in December 2005, neutral emblems recognized for certain aid societies in armed conflict are the Red Cross, the Red Crescent, and the Red Crystal. Other neutral emblems are also recognized.

17. Paul Gordon Lauren, *Power and Prejudice: The Politics and Diplomacy of Racial Discrimination* (Boulder, Colo.: Westview Press, 1988), 76–101; Burgers, "Road," 449. As noted earlier, Wilson was not entirely a Wilsonian in terms of consistent approaches to foreign affairs. While he championed the League, he opposed the United States's becoming the day-to-day protector of the Armenians under Turkish/Ottoman rule. Hence, he opposed the daily involvement in international relations that would be necessary to make the League work effectively.

18. Ernst Haas, *Human Rights and International Action* (Stanford, Calif.: Stanford University Press, 1970). See further Hector G. Bartolomei de la Cruz et al., *The International Labor Organization: The International Standards System and Basic Human Rights* (Boulder, Colo.: Westview Press, 1996).

19. Burgers, "Road," 456.

20. Neta Crawford, *Argument and Change in World Politics: Ethics, Decolonization, and Humanitarian Intervention* (Cambridge: Cambridge University Press, 2002), argues that the League PMC was important over time in the effort to discredit colonialism.

21. See Craig N. Murphy, *International Organization and Industrial Change: Global Governance since 1850* (Cambridge, Mass.: Polity Press, 1994). See also Michael Barnett and Martha Finnemore, *Rules for the World: International Organization in Global Politics* (Ithaca, N.Y.: Cornell University Press, 2004).

22. Farer, "UN and Human Rights," 97.

23. Jack Donnelly, "International Human Rights: A Regime Analysis," *International Organization* 40, no. 3 (1985), 599–642.

24. Farer, "UN and Human Rights," 98.

25. See Burgers, "Road."

26. Cathal J. Nolan, *Principled Diplomacy: Security and Rights in U.S. Foreign Policy* (Westport, Conn.: Greenwood Press, 1993), 181–202.

27. Burgers, "Road," 475.

28. For a concise statement see David P. Forsythe, "Human Rights and Peace," *Encyclopedia of Human Rights*, 3rd ed. (New York: Routledge, forthcoming).

29. See Nolan, *Principled*.

30. See further Daniel C. Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism* (Princeton: Princeton University Press, 2001); and William Korey, *The Promises We Keep: Human Rights, the Helsinki Process, and American Foreign Policy* (New York: St. Martin's Press, 1993).

31. Robert W. Tucker and David C. Hendrickson, *The Imperial Temptation: The New World Order and America's Purpose* (New York: Council on Foreign Relations Press, 1992), 86.

32. See Bruce Russett, "Politics and Alternative Security: Toward a More Democratic, Therefore More Peaceful World," in *Alternative Security: Living Without Nuclear Deterrence*, ed. Burns Weston (Boulder, Colo.: Westview Press, 1990), 107–136.

33. Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991).

34. See especially Bruce M. Russett and John Oneal, *Triangulating Peace* (New York: Norton, 2001). They argue that liberal democracy, free trade, and membership in international organizations have the combined effect of reducing international war. Other factors also come into play, such as the distribution of military power.

35. David P. Forsythe, "Democracy, War, and Covert Action," *Journal of Peace Research* 29, no. 4 (1992): 385–396.

36. David N. Gibbs, *The Political Economy of Third World Intervention: Mines, Money, and U.S. Policy in the Congo Crisis* (Chicago: University of Chicago Press, 1991).

37. David P. Forsythe, *Human Rights and Peace: International and National Dimensions* (Lincoln: University of Nebraska Press, 1993).

38. Steven C. Poe and C. Neal Tate, "Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis," *American Political Science Review* 88, no. 4 (1994): 853–872.

39. See further Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent* (Philadelphia: University of Pennsylvania Press, 1999); and Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001).

40. For recent discussions about taking these rights seriously, see William F. Felice, *The Global New Deal: Economic and Social Human Rights in World Politics* (Lanham, Md.: Rowman & Littlefield, 2003); and A. Belden Fields, *Rethinking Human Rights for the New Millennium* (New York: Palgrave, 2003).

41. This is the theme of UNDP, *Human Development Report 2000* (New York: Oxford University Press, 2000).

42. Also, in international law there is the concept of *jus cogens*: fundamental legal rights that can never be abridged, even by other rights developments. There is no definitive list of *jus cogens* approved by states, but a virtually universal view is that some human rights, such as freedom from genocide and summary execution and torture, are part of *jus cogens*. This consideration again leads to the conclusion that some human rights are more basic than others.

43. John F. Murphy, *The United States and the Rule of Law in International Affairs* (Cambridge: Cambridge University Press, 2004).

44. See Hurst Hannum, "The Status of the Universal Declaration of Human Rights in National and International Law," *Georgia Journal of International and Comparative Law* 25 (1995–1996): 287–397.

45. David P. Forsythe, *Human Rights and U.S. Foreign Policy: Congress Reconsidered* (Gainesville: University Press of Florida, 1988).

46. This is not the place for a technical discussion of the two bodies of law. There is some overlap, because, for example, the core rights of the civil-political covenant, such as the prohibition on torture, are legally valid in armed conflict as well as in other situations.

47. To better establish its independence, the ICRC and the government of Switzerland signed a headquarters agreement protecting its premises and personnel from review or intrusion by Swiss authorities, as if the ICRC were an intergovernmental organization. The ICRC seems neither fully public nor fully private, legally speaking; rather it is *sui generis* (or unique or in a category by itself). See Forsythe, *The Humanitarians*.

48. See http://www.eginitiative.org.

49. See http://www.ILO.org/public/english/wcsdg/index.htm.

50. See David Held, Anthony McGrew, David Goldblatt, and Jonathan Perraton, *Global Transformation: Politics, Economics and Culture* (Stanford, Calif.: Stanford University Press, 1999); James P. Muldoon et al., *Multilateral Diplomacy and the United Nations Today* (Boulder, Colo.: Westview Press, 1999); and James Rosenau and Ernst-Otto Czempiel, eds., *Governance Without Government* (Cambridge: Cambridge University Press, 1992).

51. Nationality Decrees in Tunis and Morocco, Permanent Court of International Justice, Series B, no. 4, *World Court Report*: 143.