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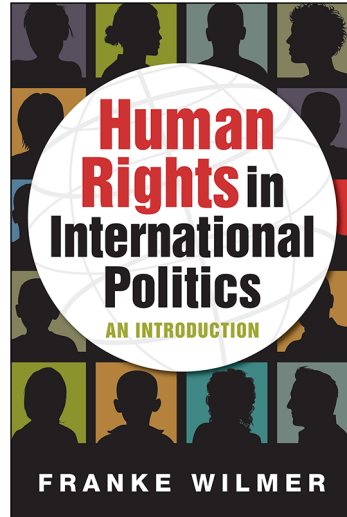
# Human Rights in International Politics: An Introduction

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# 1

## Introduction

WHY, IN THE TWENTY-FIRST CENTURY, CAN WE STILL FIND SO MUCH needless and preventable human suffering, much of it caused by intentional human action? Don't we know a better way to be human? If the inherent dignity of any human being is impaired by conditions that can arise from and can be changed by human action—hunger, lack of access to clean water, torture, ethnic cleansing, genocide, discrimination—shouldn't we do everything we can to change those conditions, to stop and prevent suffering caused by human behavior and choices?

These questions, and others, lead people to want to know more about international human rights—and inspired me to write this book. The book is intended for those who have little specialized knowledge of the subject beyond familiarity with some of the more tragic and dramatic events reported in the media: genocides in Bosnia and Rwanda, mass human rights violations in Darfur, the growing problem of child soldiers, the long and brutal history of apartheid in South Africa, and rape in eastern Congo, to name a few. In this book, I address human rights concepts, theories, issues, and debates in an accessible way.

### The Framework and Structure of the Book

Two themes link the theories and subject matter of this text. One is the relationship between interests and values. In *A Framework for Political Analysis* (1965) David Easton famously defined *politics* as “the allocation of values.” But where do values come from and how do they change over time? Values like economic freedom, political liberalism, social justice, nondiscrimination, cultural integrity, the inherent nature of human dignity, and the desire for greater security and prosperity give rise to interests and the con-

crete conditions and aspirations of material and social life. Interests—self-interests—are at the center of economic theory. They can be narrow and zero sum: that is, the more I get the less you have and vice versa. But political science takes a broader view of interests. They can be individual or collective, they can be self-centered or informed by shared values and a sense of shared fate, and they can change over time. We must always ask, “Whose values?” and “Whose interests?” when confronted with political actions and conditions that promote and protect or deprive people of human rights.

Constructivists provide some insight by claiming that interests are a product of identities and identities change over time. If interests are at least partly a product of values, and interests change, then values must also have changed. In the case of human rights, for example, why did they only emerge as international values in the twentieth century? The problems were not new; the arbitrary use of power to deprive people of their liberties and lives individually and collectively was not a twentieth-century phenomenon alone. Did human rights emerge at this historical moment because of a shift in how human beings understood what it meant to be human? Was the idea of inalienable human rights a product of Western thinking, a response to the institutional power of the modern state, an integral part of the identity of modern states, a culturally transcendent and universally good idea, or, to some extent, all of these? Interests and values are codetermined. From this perspective, human rights are asserted as values that transcend cultural and historical particularity to become common, human interests.

As a second theme, I highlight the dual role of the state as a perpetrator of human rights violations and as a protector of human rights. The relationship between contemporary international human rights and the formation of the modern state cuts at least two ways: as a limit on the authority of contemporary state institutions and as an expression of the liberal ideals of the Enlightenment. Human rights claims arose in response to centuries of abuses of power—the imprisonment of political enemies by despotic monarchs, torture, genocide, and extrajudicial execution, for example. Contemporary human rights are aimed at making government institutions more accountable and less abusive. In this view, the state is the problem, and respect for human rights is the solution. The other side of the balance sheet broadly implicates the role of the Enlightenment and spread of political liberalism in shaping the contemporary state as an institution of popular self-government, an expression of the authority that originates with the people and not from a divine or preordained source. Indeed, these two strands are connected by challenging the authority of the state and its excesses and are in many ways a consequence of shifting beliefs about the locus of authority from inherent in the state to inherent in the people.

Following this introduction, I begin Chapter 2 with an overview of the concept of human rights, the philosophies, theories, mechanisms, and doc-

uments that bear on and embody contemporary international human rights. This chapter serves as a broad introduction to the subject of international human rights. In Chapter 3, I explore the concept of human dignity across cultural traditions and then put the contemporary development of human rights into historical and cultural context. The thinkers of the Enlightenment articulated the idea that human beings, not institutional authority or power, ought to be the central concern of governance and source of authority. From this perspective, the state is an institutional expression of the Enlightenment's ideals. But are those ideals universal, or are they culturally specific to the experience of European societies? Contemporary international human rights emerged in the second half of the twentieth century as a central concern of world politics largely because of the unprecedented atrocities of the Holocaust as well as the predominant role of Western states in designing the postwar world order. But since then the number of states has quadrupled and non-Western voices have joined the dialogue, bringing new perspectives and challenging the emphasis on Western conceptions of international human rights.

The role of Western powers in this process raises questions about the universality of contemporary human rights, as discussed in Chapter 4. Are they universal or relative? Are they compatible with non-Western philosophical and religious traditions, or in fact, have non-Western traditions and actors already contributed to their modern conception and development? Does the prioritization of concerns differ across diverse historical experiences and cultural orientations? Do distinct Asian values exist, and if so, are they incompatible with prevailing conceptions of international human rights? Are Islamic beliefs inherently irreconcilable with international human rights norms? What role do human rights play in the recent Arab Spring revolutions against authoritarian governments?

In Part 2, I begin, in Chapter 5, with a critical examination of the relationship between human rights and the state by identifying a number of issues where this intersection has positive, negative, or ambiguous consequences for international human rights. These issues include the assertion of state sovereignty, its claim to a monopolization of legitimate force, constitutionalism, secularism, and state reliance on the construction of national identity in mobilizing internal support and legitimation. Of these, sovereignty is surely the most controversial and often regarded as a major roadblock to the enforcement of international human rights standards. The "dark side" of state sovereignty—the use of state autonomy as a shield against intervention—is, can, or ought to be mitigated by the rule of law. But the rule of law is weak to nonexistent in many states as well as at the international level. Furthermore, it can be severely weakened or undermined even in strong democracies when a climate of fear prevails under threats to national security, as happened in Britain during the "Troubles"



in Northern Ireland and the United States in the aftermath of the 9/11 attacks.

How international human rights are implemented in national and international venues is the subject of Chapter 6. The range of mechanisms and strategies is broad, from national laws, foreign policies, and national reconciliation efforts to provisions linked directly to international treaties and conventions, international judicial institutions, and international commissions.

Nonstate actors play an increasingly important role in all aspects of international relations, and the area of human rights is no exception. In Chapter 7, I survey a variety of nonstate actors, including nongovernmental organizations (NGOs) and social movements, whose activities are undertaken to promote and protect human rights through advocacy, action, and publicity. I also include those nonstate actors whose activities are associated with the human rights violations, such as terrorist organizations, organized crime, and irregular armed forces. The role of multinational corporations is examined in this chapter as well.

In Part 3, I cover a range of human rights issues, beginning in Chapter 8 with genocide. I focus on the twentieth century when the definition and prohibition of genocide were raised to the level of a *jus cogens* norm—a norm from which no derogation is permitted. The horrors of the Holocaust propelled genocide to the top of the UN agenda in the aftermath of World War II, but the Holocaust was not the first or last genocide in the twentieth century. Political controversy still surrounds the Turkish government's unwillingness to acknowledge the Armenian genocide under Ottoman rule. The Armenian genocide, the Holocaust, and the atrocities committed in Bosnia and Rwanda seem to fit the criteria for genocide in a straightforward way. Two additional cases are raised that highlight weaknesses in the current definition of genocide and the application of that definition for the purposes of international law and action. Does a situation count as genocide when perpetrated by nonstate actors and the state fails to stop it or even tacitly approves? The International Criminal Court (ICC) in the case of Darfur must address this question in its investigations into the crimes in Darfur. The last case involves indigenous peoples, where state and nonstate actors have colluded to eliminate them as a group through direct and indirect violence over a long historical period and, in some cases, up into the present.

In Chapter 9, I continue examining the history, development, and current challenges to international human rights in the context of warfare. Arguably, the laws of warfare beginning in the middle of the nineteenth century, which attempted to “civilize” the conduct of war in Western societies, mark one of the earliest efforts to codify internationalized human rights. Provisions of and obligations under the Geneva Conventions have become controversial recently not only because of accusations that the United States violated treaty obligations by torturing prisoners in Guan-

tanamo or creating a category of prisoners (unlawful enemy combatants), which the United States claims are not protected by the Geneva Conventions, but also because questions arise in conflicts involving nonstate actors, such as ethnic groups in the Yugoslav wars of secession, as well as those designated as terrorist groups, particularly when they use unconventional tactics and weapons.

In Chapter 10, I review the civil liberties and political rights that have coevolved with the liberal democratic states. These generally fall into the category of what many call “negative” rights, that is, rights protected by prohibitions on state conduct (versus “positive” rights that necessitate state action in order to be realized, such as providing clean water and sanitation). Civil liberties and political rights create a system of due process that restricts how governments may assert coercive authority by protecting individuals when subjected to it. Violations, such as torture, incommunicado detention, and extrajudicial and summary executions, implicate a failure or denial of due process.

In Chapter 11, I take up the question of civil rights and the related problem of discrimination, concluding with a brief look at some of the newer or emerging rights issues. Civil rights include freedom from discrimination, whether as a direct or indirect consequence of public policy or citizens’ engagement in discriminatory practices in a private capacity. Discrimination can blur the distinction between positive and negative rights when the state acts to prohibit discriminatory practices by private citizens and provide legal remedy to those injured by discrimination, even when it occurs through the actions of private citizens. Discrimination also affects political rights when it is institutionalized and impairs an individual’s ability to participate in civil and political life. States have historically been perpetrators of discriminatory practices that not only deny or deprive individuals of rights because of their identity as members of a particular group or class of people but also deny whole groups equal protection under the law and equal rights to political participation.

The issue of women’s human rights is discussed in Chapter 12, which addresses a broad spectrum of political, legal, and social practices that diminish the status of women and deprive them of equality and basic human needs. In many cases, these conditions can result in direct injury and death. From a rights perspective, this issue is similar to other kinds of discrimination with an important distinction: discrimination and violence against women are deeply embedded within social and cultural practices involving the most intimate human relations and have been reproduced over a long historical period. Political and legal institutionalization of women’s second-class citizenship is rooted in patriarchal beliefs about gender differences that, unlike racial or religious differences, are still rationalized on the grounds of biological difference. Arguments about cultural relativism are

more often used to defend against changing laws and practices that marginalize and injure women.

In Chapter 13, I consider rights that, although not generally seen as basic freedoms, are necessary to achieve and maintain a healthy and secure lifestyle, as well as the social and political conditions necessary for the protection of cultural integrity. One question considered in that chapter is whether certain rights are inherently human rights that go beyond basic freedoms, equal opportunity for political and civil participation, and meeting basic human material needs. A number of issues in international human rights cut across the boundaries of civil, political, economic, social, and cultural rights.

In Chapter 14, I reflect on the future of human rights and return to a consideration of the relationship between human rights and the state. Do further realization and protection of human rights necessitate a reform of the state? What progress has been made in the development of an international human rights regime, and what needs to be done to make it more effective? What is the relationship between human rights and the democratization of world order? How useful are theories in explaining the causes of human rights violations and formulating solutions to prevent them?

In Chapter 15, I provide some ideas for further engagement or action on the part of the reader. The breadth of issues and the scale and severity of suffering caused by the failure to protect people against human rights abuses can be overwhelming and leave one with a sense of helplessness. In this short final chapter, I suggest ways in which readers who want to act on what they have learned but who have different amounts of time and interest can engage in activities to promote better respect for human rights.

## Advocacy and Human Rights

One of the questions inevitably raised as one teaches a course on international human rights is whether, where, and how to draw a boundary between scholarship and advocacy. International human rights as a subject proceeds from the premise that more respect for and protection of human rights would make the world a better, more humane place. Human rights are really also about human wrongs, and in this way, the subject itself constitutes a normative claim that rights are good and violations of or failure to respect rights are bad. Implicit in the subject is the normative directive that something should be done, by individuals acting privately as well as by governments as public actors, to reduce violations and increase respect for human rights. At the same time, many human rights issues should and do provoke debates among policymakers, among private citizens, and, certainly, in class. Writing an introductory textbook inserts the author into

these debates. Students are encouraged to read critically and to challenge the normative claims made in this book. At times, in the text, I point out where these debates are taking place already and invite students to join them. But implicit normative claims are also made by way of choosing which topics to cover, deciding how much coverage to afford a particular issue, and suggesting explanations about the causes of certain human rights problems.

For example, many contemporary human rights violations—from genocide and ethnic cleansing to the dispossession and forced assimilation of indigenous peoples—indicate that a root cause of human rights problems is racial and ethnic discrimination and intolerance. By itself, this claim is not very controversial. But this text suggests that these factors are at the root and are so difficult to address because the structure and the narrative of the state as a natural expression of a national identity privilege one racial or ethnic identity over others, even without a malevolent intention to discriminate. Particular languages and cultural practices, as well as ethnic, communal, or religious identities, are marginalized by their minority status. This marginalization is inevitable in a world of just under 200 states and several thousand ethnic, identity, or communal groups given both the current role of identity in constructing narratives about the state and pragmatic issues such as the necessity of designating official languages to conduct civic discourse in the state.

One of the most pressing issues in contemporary debates about liberalism is its compatibility with multiculturalism. Can liberalism mitigate the tension between the quest for national unity and cohesiveness within states on the one hand and the fact of their multinational or multicultural demographic makeup on the other? Readers may disagree with the claim that racial and ethnic intolerance is a major cause of many human rights problems. They may disagree that the structure of the modern state exacerbates the problem and counter that liberalism has not yet clearly provided philosophical guidance that can resolve the issue. Alternatively, readers may agree with these claims and then proceed to think about ways to mitigate the tendency to privilege one identity over others in the state. Either way, they will have something to think about, and this text is spared from being a catalog or encyclopedia of human rights.

Finally, many of the worst human rights problems that directly and indirectly result in human suffering, for lack of a better way of putting it, occur because of the failure to understand them as preventable. The violence and killing in Darfur from 2003 to 2007, for instance, was simultaneously a civil war against the Sudanese government by a coalition of rebel groups, a ruthless counterinsurgency by said government, a conflict that implicates identity differences where Arab identity has been privileged and non-Arabs marginalized, and the site of widespread atrocities against

unarmed and noncombatant civilians. The United Nations condemned the violence and authorized an intervention; however, only the African Union acted on that authority, sending a grossly inadequate force—only numbering several hundred troops—into the region. A UN arms embargo was undermined by Russia and China, while other permanent members of the Security Council remained focused on the ongoing wars in Iraq and Afghanistan and showed little political will to materially support an intervention in Sudan. Estimates of the number killed remain unsettled, but somewhere close to a half million people likely died in Darfur, with as many as 80 percent dying from diseases such as diarrhea resulting from deprivation of clean water and sanitation rather than from direct violence.

Virtually every issue involving human rights raises questions about justice and the ethical responsibility to act to prevent or intervene in human suffering whenever possible. As Henry Shue (1980) argues, starvation, disease, and the deprivation of basic needs like clean water kill human beings just as certainly as do torture, war, and genocide. To educate about human rights is to advocate their protection and to progress toward the elimination of the conditions and practices associated with the violation of these rights. This book was therefore also written as a call to action, a call to the reader to think about and do some things differently.