

Human Rights and Humanitarian Intervention

'All human beings are born free and equal in dignity and rights.'

UN Declaration of Human Rights, 1948, Article 1

PREVIEW

Moral and ethical questions have always been important in international politics. However, since the end of the Cold War they have attracted intensified interest, as issues of global justice have come to vie with more traditional concerns, such as power, order and security. Moreover, when matters of justice and morality are raised, this is increasingly done through a doctrine of human rights that emphasizes that people everywhere enjoy the same moral status and entitlements. Human rights have come to compete with state sovereignty as the dominant normative language of international affairs and human development. This has created tension between human rights and states' rights, as the former implies that justice should extend *beyond*, as well as *within*, national borders. Difficult questions have nevertheless been raised about human rights. Not the least of these are about the nature of, and justifications for, human rights. In what sense are these rights 'human' rights, and which rights do they cover? Other debates concern the extent to which human rights are protected in practice, and whether they are genuinely universal, applying to all peoples and all societies. How far are human rights applied in practice, and how far should they be applied? Tensions between states' rights and human rights have become particularly acute since the 1990s through the growth of so-called 'humanitarian intervention'. Major states have assumed the right to intervene militarily in the affairs of other states to protect their citizens from abuse and possibly death, often at the hands of their own government. How, and to what extent, is such intervention linked to human rights? Can intervention ever be genuinely 'humanitarian'? And, regardless of its motives, does humanitarian intervention actually work?

KEY ISSUES

- What are human rights, and on what basis can they be claimed?
- How, and how effectively, have international human rights been protected?
- On what grounds has the doctrine of human rights been criticized?
- What explains the growth of humanitarian intervention, and its subsequent decline?
- Under what circumstances is it right to intervene in the affairs of another state?
- Why has humanitarian intervention been criticized?

CONCEPT

Human rights

Human rights are rights to which people are entitled by virtue of being human; they are a modern and secular version of 'natural rights'. Human rights are *universal* (in the sense that they belong to human beings everywhere, regardless of race, religion, gender and other differences), *fundamental* (in that a human being's entitlement to them cannot be removed), *indivisible* (in that civic and political rights, and economic, social and cultural rights are interrelated and co-equal in importance) and *absolute* (in that, as the basic grounds for living a genuinely human life, they cannot be qualified). 'International' human rights are set out in a collection of UN and other treaties and conventions (see p. 311).

● **Natural rights:** God-given rights that are fundamental to human beings and are therefore inalienable (they cannot be taken away)

● **Humanitarianism:** A concern about the wellbeing of humanity as a whole, typically expressed through acts of compassion, charity or philanthropy.

HUMAN RIGHTS**Defining human rights**

The individual in global politics

International politics has traditionally been thought of in terms of collective groups, especially states. Individual needs and interests have therefore generally been subsumed within the larger notion of the 'national interest'. As a result, international politics largely amounted to a struggle for power between and amongst states with little consideration being given to the implications of this for the individuals concerned. People, and therefore morality (in terms of the happiness, suffering and general wellbeing of individuals), were factored out of the picture. However, this divorce between state policy and the individual, and thus between power and morality, has gradually become more difficult to sustain.

Many cultures and civilizations have developed ideas about the intrinsic worth and dignity of individual human beings. However, these theories were traditionally rooted in religious belief, meaning that the moral worth of the individual was grounded in divine authority, human beings usually being seen as creatures of God. The prototype for the modern idea of human rights was developed in early modern Europe in the form of '**natural rights**'. Advanced by political philosophers such as Hugo Grotius (see p. 334), Thomas Hobbes (see p. 14) and John Locke (1632–1704), such rights were described as 'natural', in that they were thought to be God-given and therefore to be part of the very core of human nature. Natural rights did not exist simply as moral claims but were, rather, considered to reflect the most fundamental inner human drives; they were the basic conditions for leading a truly human existence. By the late eighteenth century, such ideas were expressed in the notion of the 'rights of man' (later extended by feminists to include the rights of women), which was used as a means of constraining government power by defining a sphere of autonomy that belongs to the citizen. The US Declaration of Independence (1776), which declared life, liberty, and the pursuit of happiness to be inalienable rights, gave expression to such ideas, as did the French Declaration of the Rights of Man and of the Citizen (1789).

Such thinking gradually acquired an international dimension during the nineteenth and twentieth centuries through attempts to set standards for international conduct, usually based on **humanitarianism**. For example, the growth of humanitarian ethics helped to inspire attempts to abolish the slave trade, a cause endorsed by the Congress of Vienna (1815) and was eventually achieved by the Brussels Convention (1890), with slavery itself being formally outlawed by the Slavery Convention (1926) (even though forms of slavery continue to exist in practices such as bonded labour, forced marriage, child labour and the trafficking of women). The Anti-Slavery Society, formed in 1837, can perhaps be seen as the world's first human rights NGO (see p. 6). Other humanitarian causes that were translated into a form of international standard setting included the regulation of the conduct of war, through the Hague Conventions (1907) and the Geneva Conventions (1926), and attempts to improve working conditions, spearheaded by the International Labour Office, formed in 1901, and its

successor, the International Labour Organization, which was established in 1919 as part of the Treaty of Versailles and became, in 1946, the first specialized agency of the United Nations.

Such developments nevertheless remained piecemeal and largely marginal to the general thrust of international politics until the end of WWII. The adoption by the UN General Assembly of the Universal Declaration of Human Rights (1948), later supplemented by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (both in 1966), established the modern human rights agenda by outlining a comprehensive code for the internal government of its member states, which has arguably acquired the status of customary international law (see p. 332). Reflecting a major change in the general climate of thought, deeply influenced by the horrors of WWII (especially the so-called ‘Final Solution’, the murder of some six million Jews, Gypsies and Slavs in the extermination camps of Nazi Germany), the Declaration led to a burst of law-making and standard setting that sought to establish international protection for the full range of human rights. 1948 thus brought to an end a period of exactly 300 years since the Treaty of Westphalia (1648), during which state sovereignty (see p. 3) had stood unchallenged as the dominant norm of international politics. However, although the Declaration established the rival norm of human rights, tensions between states’ rights and human rights were by no means resolved in 1948, as will be discussed later. In the meantime, it is necessary to examine the nature and implications of human rights. What are human rights, and why should they be respected?

Nature and types of human rights

A right is an entitlement to act or be treated in a particular way. As such, rights entail duties: the claim to have a right imposes obligations on others to act, or, perhaps, to refrain from acting in a particular way. Human rights are essentially moral claims or philosophical assertions, but they have gained, since 1948, a measure of legal substance. Human rights, most basically, are rights to which people are entitled by virtue of being human. They are therefore ‘universal’ rights, in the sense that they belong to all human beings rather than to members of any particular nation, race, religion, gender, social class or whatever. This **universalism** was clearly expressed in the words of the American Declaration of Independence, written by Thomas Jefferson (1743–1826), which proclaimed: ‘We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights’. However, there have been very deep divisions about what rights human beings should enjoy. Indeed, thinking about the content of human rights has developed significantly over time, enabling three different types, or ‘generations’ of human rights to be identified (Vasak 1977) (see Table 13.1). These are:

● **Universalism:** The belief that it is possible to uncover certain values and principles that are applicable to all people and all societies, regardless of historical, cultural and other differences.

- Civil and political rights
- Economic, social and cultural rights
- Solidarity rights

Civil and political rights were the earliest form of natural or human rights. They were advanced through the English Revolution of the seventeenth century and the French and American Revolutions of the eighteenth century. The core civil and political rights are the rights to life, liberty and property, although they have been expanded to include, for example, freedom from discrimination, freedom from slavery, freedom from torture or other inhuman forms of punishment, freedom from arbitrary arrest, and so on. Civil and political rights are often typically seen as **negative rights**, or ‘forbearance’ rights: they can be enjoyed only if constraints are placed on others. Negative rights therefore define a private sphere within which the individual can enjoy independence from the encroachments of other individuals and, more particularly, from the interference of the state. Negative human rights thus correspond closely to classic **civil liberties**, such as the rights to freedom of speech, freedom of the press, freedom of religion and conscience, freedom of movement, and freedom of association. However, it would be misleading to suggest that all civil and political rights are ‘negative’ in this respect. The right to non-discrimination, for instance, can only be upheld through legislation and a framework of enforcement on the part of government, while the right to a free and fair trial requires the existence of a police force and a court system. Civil liberties are therefore often distinguished from **civil rights**, the latter involving positive action on the part of government rather than simply forbearance. The dual character of civil and political rights is evident in the complex relationship between human rights and democracy.

The struggle for *economic, social and cultural rights* gained greater prominence during the twentieth century, especially in the post-1945 period. By contrast with traditional ‘liberal’ rights, these so-called ‘second-generation’ rights often drew on socialist assumptions about the tendencies of capitalist development towards social injustice and unequal class power. Socio-economic rights – including the right to social security, the right to work, the right to paid holidays, the right to healthcare, the right to education and so on – were designed to counter-balance inequalities of market capitalism, protecting the working classes and colonial peoples from exploitation. These rights are **positive rights**, in that they imply a significant level of state intervention, usually in the form of welfare provision (welfare rights), the regulation of the labour market (workers’ rights) and economic management generally.

However, deep controversy has surrounded economic and social rights. Supporters have argued that economic and social rights are, in a sense, the most basic of human rights, as their maintenance constitutes a precondition for the enjoyment of all other rights. In this view, human dignity is more severely threatened by poverty, disease, ignorance and other forms of social disadvantage than it is by the denial of ‘liberal’ rights. Nevertheless, economic and social rights have often been thought of, especially in the USA and other western states, as at best second-class human rights, if not as entirely bogus moral claims. Critics have alleged, first, that the maintenance of such rights requires material resources and political capabilities that many states simply do not possess. Economic and social rights can therefore only be viewed as aspirations rather than entitlements. Second, it is unclear who or what is responsible for upholding economic and social rights. If, through a lack of resources or capabilities, a national government cannot deliver economic and social rights, do these obligations then fall on other states (if so, which ones?), international organizations or,

● **Negative rights:** Rights that are enjoyed by virtue of the inactivity of others, particularly government; often seen (somewhat misleadingly) as ‘freedoms from’.

● **Civil liberties:** Rights and freedoms that define a ‘private’ sphere of existence that belongs to the citizen, not the state; freedoms from government.

● **Civil rights:** Rights of participation and access to power, typically voting and political rights and the right to non-discrimination.

● **Positive rights:** Rights that can only be enjoyed through positive intervention on the part of government, often linked to the idea of ‘freedom to’.

Focus on . . .

Democracy as a human right?

In their earliest formulation, natural or human rights were profoundly anti-democratic. This is because their purpose was to empower individuals, and this implied limiting the authority of government, regardless of whether government was democratic or authoritarian. Democracy, indeed, threatened to transfer sovereignty from the individual to the people, creating a particular concern that democratic rule would lead to a 'tyranny of the majority', which may threaten minority rights and individual freedoms. So-called liberal democracies uphold human rights to the extent that they are 'liberal' (that is, they practise limited government) rather than to the extent that they are 'democratic' (that is, they ensure a system of government by the people). This implies that in liberal democracies human rights, sometimes seen as civil liberties, are given priority over democracy.

However, tensions between human rights and democracy have, over time, reduced, even to the point that many have come to view 'democracy promotion' (see p. 206) as a key element in the modern human rights agenda. This has happened for both practical and theoretical reasons. In practical terms, democratization has generally led to greater, if still imperfect, respect for human rights in post-communist or former authoritarian regimes, helping to establish a link between the two. In theoretical terms, the defence of traditional civil liberties has increasingly been seen as providing the preconditions for free and informed political participation. Similarly, there has been a greater stress on civil rights and an equal access to power as a means of upholding all other rights.

somehow, on the peoples of the world? Third, from the perspective of economic liberalism, economic and social rights may be counter-productive, in that higher levels of (albeit well-intentioned) state intervention may simply undermine the vigour and efficiency of capitalist economies.

Since 1945 a further set of rights have emerged in the form of *solidarity rights*, or so-called 'third-generation' rights. These encompass a broad spectrum of rights whose main characteristic is that they are attached to social groups or whole societies, as opposed to separate individuals. They are sometimes, therefore, seen as collective rights or people's rights. Whereas 'first-generation' rights were shaped by liberalism and 'second-generation' rights were shaped by socialism, 'third-generation' rights have been formed by the concerns of the global South. The right to self-determination was thus linked to the post-1945 process of decolonization and the rise of national liberation movements. Other such rights include the right to development, the right to peace, the right to environmental protection and multicultural rights. Solidarity rights have therefore been used to give issues such as development, environmental sustainability and cultural preservation a moral dimension. Nevertheless, critics of 'third-generation' rights have highlighted their inherent vagueness and, more seriously, questioned whether human rights can actually belong to peoples or groups as opposed to individuals. From this perspective, the very idea of human rights is based on a model of individual self-worth, which is in danger of being weakened whenever people are thought of in terms of group membership.

Table 13.1 Three generations of human rights

Generation	Type	Key theme	Rights	Key documents
First generation (eighteenth and nineteenth centuries)	Civic and political rights	Liberty	<ul style="list-style-type: none"> • Life, liberty and property • Non-discrimination • Freedom from arbitrary arrest • Freedom of thought 	<ul style="list-style-type: none"> • UN Declaration, Articles 3 to 21 • International Covenant on Civil and Political Rights
Second generation (twentieth century)	Economic, social and cultural rights	Equality	<ul style="list-style-type: none"> • Work • Social security • Healthcare • Education • Paid holidays 	<ul style="list-style-type: none"> • UN Declaration Articles 22 to 27 • International Covenant on Economic, Social and Cultural Rights
Third generation (post-1945)	Solidarity rights	Fraternity	<ul style="list-style-type: none"> • Self-determination • Peace • Development • Environmental protection 	<ul style="list-style-type: none"> • Stockholm Convention on the Human Environment, 1972 • Rio 'Earth Summit', 1992

Implications of human rights for global politics

Human rights, by their nature, have profound implications for global politics. Why is this? The first answer to this question is that, being universal and fundamental, human rights invest governments with powerful obligations, affecting their foreign as well as domestic policies. The protection and realization of human rights is thus a key role of government, and perhaps, according to liberals, its core purpose. Interactions between states should therefore have, at least, a human rights dimension. This, in theory at least, imposes major constraints on the behaviour of national governments, both in terms of how they treat their domestic population and in their dealings with other peoples and countries. This affects matters ranging from the recourse to, and conduct of, war (where a concern for human rights has generally been seen to be compatible with the requirements of a 'just war' (see p. 257)), to foreign aid and trade policies. More radically and controversially, these obligations may extend to taking action, perhaps military action, to prevent or discourage other countries from violating human rights within their own borders, what has come to be called 'humanitarian intervention' (see p. 319), discussed later in this chapter.

The second way in which human rights have implications for global politics is that they imply that the boundaries of moral concern extend beyond national borders; indeed, in principle, they disregard national borders. Human rights are nothing less than a demand of all humanity on all of humanity (Luban 1985). Growing acceptance of the doctrine of human rights therefore goes hand-in-hand with the growth of cosmopolitan sensibilities. For Pogge (2008), human rights fulfil each of the three elements of cosmopolitanism (see p. 21): individualism (an ultimate concern with human beings or persons, not groups), universality (a recognition of the equal moral worth of all individuals) and generality (the belief that persons are objects of concern for everyone, regardless of nationality and so on). The cosmopolitan implications of human rights are evident not

only in attempts to use international law, albeit usually 'soft' law, to set standards for the behaviour of states, but also in attempts to strengthen regional and global governance (see p. 455) and thereby constrain, or perhaps redefine the nature of, state sovereignty. However, despite the strengthening of human rights law and increased interest in cosmopolitan thinking in general and human rights thinking in particular, the theoretical implications of human rights are counterbalanced by powerful practical and sometimes moral considerations. This makes the protection of human rights a complex and often difficult process.

Protecting human rights

The human rights regime

Since 1948, an elaborate international regime (see p. 67) has developed to promote and protect human rights globally. At the heart of this regime continues to stand the UN Universal Declaration of Human Rights. Although the 1945 UN Charter urged the promotion of 'universal respect for, and observation of, human rights and fundamental freedoms for all', it failed to specify the human rights that states had to guarantee and respect. This defect was rectified by the UN Declaration. Although the UN Declaration is not a legally binding treaty, it is commonly seen as a form of customary international law that is used as a tool to apply diplomatic and moral pressure to governments that violate any of its articles. By establishing that states could no longer violate human rights without the risk that their actions would come onto the agenda of the principal organs of the UN, the Declaration challenged states' exclusive jurisdiction over their own citizens and weakened the principle of non-interference in domestic affairs. The incorporation of the Declaration into a legally-binding codification of human rights – in effect, human rights law – was achieved through the adoption in 1966 of the international covenants on Civil and Political Rights and Economic, Social and Cultural Rights. Collectively, the 1948 Declaration and the two covenants are commonly referred to as the 'International Bill of Human Rights'.

Until the mid-1960s, the UN concentrated almost exclusively on the generation of human rights norms and standards. Subsequently, it placed greater emphasis on their implementation. A major step in this direction was taken by the establishment of the Office of the UN High Commissioner for Human Rights, which had been one of the key proposals of the 1993 World Conference on Human Rights in Vienna. The role of the High Commissioner is to promote worldwide respect for the human rights enshrined in international laws by supporting the bodies created by human rights treaties. However, the Office of the High Commissioner has proved to be more effective in highlighting human rights violations than it has been in enforcing human rights law. As its main sanction remains the publication and denunciation of violations by individual states – that is, naming and shaming – the Office relies very largely on persuasion and observation to improve governments' human rights policies. The UN's 47-member Human Rights Council, which replaced the much criticized UN Human Rights Commission in 2006, also addresses situations of human rights violations. However, it has no authority other than to make recommendations to the General Assembly which, in turn, can only advise the Security Council. It has

APPROACHES TO . . .

HUMAN RIGHTS

Realist view

Realists have tended to view a concern with human rights as, at best, a 'soft' issue in international affairs, by contrast with 'hard', or 'core', concerns such as the pursuit of security and prosperity. Other realists go further and believe that human rights thinking in relation to international and global issues is entirely wrong-headed. This is because realists hold that it is impossible, and undesirable, to view international politics in moral terms. Morality and the national interest are two distinct things, and states fail adequately to serve their own citizens (and often those of other states) when they allow ethical considerations – particularly ones as inherently vague and confused as human rights – to affect their behaviour. Realist objections to the culture of human rights have at least three bases. In the first place, they take issue with the essentially optimistic model of human nature that underpins human rights, which emphasizes dignity, respect and rationality. Second, realists are primarily concerned about collective behaviour, and especially the capacity of the state to ensure order and stability for their citizens. The national interest should therefore take precedence over any individually-based conception of morality. Third, being based on positivism, realism is keen to uphold its scientific credentials. This implies a concern with what *is*, rather than with what *should be*.

Liberal view

The modern doctrine of human rights is very largely a product of liberal political philosophy. Indeed, so entangled with liberal assumptions are they that some doubt whether human rights can ever properly be described as 'above' ideological differences, bearing the cultural imprint of western liberalism. At a philosophical level, the image of humans as 'rights bearers' derives from liberal individualism. On a political level, liberals have long used the notion of natural or human rights to establish the basis of legitimacy. Social contract theorists thus argued that the central purpose of government is to protect a set of inalienable rights, variously described as 'life, liberty and property' (Locke), or as 'life, liberty and the pursuit of happiness' (Jefferson). If governments become tyrannical, by abusing or failing to protect such rights, they break an

implicit contract between the people and government, entitling citizens to rebel. The English, American and French revolutions were all justified using such ideas. During the twentieth century, liberals increasingly used such thinking to outline the basis for international legitimacy, arguing that states should be bound, preferably legally, to uphold human rights in their dealings with their domestic population as well as with other states. The 1948 UN Declaration therefore has, for liberals, a near-religious significance. Nevertheless, liberals tend to regard only civil and political rights as fundamental rights, and sometimes view economic rights and any conception of group rights with grave suspicion.

Critical views

Critical approaches to human rights have either tended to revise or recast the traditional, liberal view of human rights, or they have been openly hostile to the idea itself. The global justice movement has used economic and social rights as the basis of calls for a radical redistribution of power and resources, both within countries and between them (Shue 1996; Pogge 2008). Human rights have thus been turned into a doctrine of global social justice, grounded in moral cosmopolitanism. Feminists, for their part, have demonstrated a growing interest in the cause of human rights. In particular, they have sought to transform the concept and practice of human rights to take better account of women's lives, highlighting the issues of 'women's human rights' (Friedman 1995). This marks a recognition by feminist activists of the power of the international human rights framework, and especially its capacity to place women's issues on mainstream agendas. Human rights have thus been redefined to include the degradation and violation of women. At the same time, however, feminists have taken a critical view of rights that men have designed to protect their entitlement to private commerce, free speech and cultural integrity, which have been used to legitimize practices such as child marriages, the trafficking of women and child pornography (see Cultural rights or women's rights? p. 196). The postcolonial critique of human rights is examined in the main body of the text, see pp. 316–18.

KEY EVENTS . . .

Major international human rights documents

1948	Universal Declaration of Human Rights
1949	Geneva Conventions on the Treatment of Prisoners of War and Protection of Civilian Persons in Time of War
1950	European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms)
1951	Genocide Convention (Convention on the Prevention and Punishment of the Crime of Genocide)
1954	Convention Relating to the Status of Refugees
1966	International Covenant on Civil and Political Rights (came into force in 1976)
1966	International Covenant on Economic, Social and Cultural Rights (came into force in 1976)
1969	Convention on the Elimination of All Forms of Racial Discrimination
1975	Declaration on Torture
1981	Convention on the Elimination of All Forms of Discrimination Against Women
1984	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
1990	Convention on the Rights of the Child
1993	Vienna Convention on Human Rights (Vienna Convention on the Law of Treaties)
2000	Charter of Fundamental Rights of the European Union

also, like its predecessor, been criticized for being biased and inconsistent in the exposure of human rights abuses. Not only does it include states that have themselves a dubious human rights record, but member states also tend to protect each other (and developing states generally) from criticism and they have, allegedly, been over-willing to highlight violations carried out by Israel.

One of the main features of the human rights regime is the prominent role played within it by a wide range of NGOs. For example, over 1,500 NGOs participated in the World Conference on Human Rights in Vienna, while the number of registered international NGOs reached 37,000 by 2000, most of them claiming to have some kind of human rights or humanitarian purpose. In the case of groups such as the International Committee of the Red Cross, Médecins Sans Frontières and Oxfam, operational NGOs work directly in the field to relieve suffering but also campaign on behalf of those they treat to promote the obser-

vance of human rights treaties and humanitarian law. The most prominent advocacy NGOs are Human Rights Watch (initially named Helsinki Watch, and set up to respond to the activities of East European dissidents' groups) and Amnesty International. They exert pressure by gaining media coverage, based, in part, on the high moral purpose that people customarily attach to their activities. In this way, NGOs have made a substantial contribution to the growth worldwide of a human rights culture, influencing not only governments but also transnational corporations (see p. 99), over matters such as pay and working conditions in overseas factories. The impact of NGOs within the human rights regime nevertheless goes far, particularly through behind-the-scenes lobbying of government delegations and experts, and the drafting of resolutions. A campaign by Amnesty International and the International Commission of Jurists during 1972–3 thus initiated the process that led to the 1975 Declaration on Torture. NGOs played a particularly prominent role in drafting the 1990 Convention on the Rights of the Child, and were highly influential in the establishment of the Land Mine Treaty of 1997. Nevertheless, NGOs also suffer from limitations. These include that human rights NGOs cannot *force* governments to change their ways, and that their impact within the UN is weakest in relation to the Security Council, the only body with the power to enforce UN decisions. Finally, NGOs have sometimes been criticized for adopting a 'bandwagon' approach, joining in on popular, or media-led, issues in the hope of enhancing their status or attracting funding.

The protection of human rights is generally seen to be most advanced in Europe. This largely reflects the widespread acceptance, and status, of the European Convention on Human Rights (ECHR) (1950), which was developed under the auspices of the Council of Europe and is based on the UN Declaration. By 2009, 48 states had signed the European Convention. The ECHR is enforced by the European Court of Human Rights in Strasbourg, France. Complaints can be made to the Strasbourg court by signatory states or, much more commonly, by individual citizens. By the end of 2004, over 65,000 applications had been submitted to the European Court of Human Rights. This often creates a substantial backlog, meaning that cases commonly take three to five years before they are considered, added to the fact that they are also highly costly. Nevertheless, the almost total compliance with the Court's verdicts attests to the effectiveness of this mechanism for the protection of human rights. The rate of compliance within the time allowed for the Court is about 90 per cent. This makes the ECHR the nearest thing to human rights 'hard' law.

Human rights in a world of states

The key dilemma of human rights protection is that states are the only actors powerful enough to advance human rights, while also being the greatest human rights abusers. This reflects the inherent tension between human rights and foreign policy (see p. 129) to which Vincent (1986) drew attention (although he may well have included domestic policy as well). Nevertheless, the image of unavoidable antagonism between human rights and states' rights is misleading. In the first place, the trend for states to establish civil liberties and human rights in domestic law long pre-dates the advent of the international human rights regime. Second, international human rights standards have not been foisted on

GLOBAL ACTORS . . .

AMNESTY INTERNATIONAL

Type: NGO • **Established:** 1961 • **Headquarters:** London • **Staff:** About 500
Membership: 2.2 million

Amnesty International (commonly called Amnesty or AI) is an international NGO that draws attention to human rights abuses and campaigns for compliance with international standards, placing a special emphasis on the rights of political prisoners (the 'forgotten prisoners' or 'prisoners of conscience', in the words of Amnesty's founder and general secretary, 1961–66, Peter Benenson). From being a small group of writers, academics, lawyers and sympathetic journalists, AI has developed into a global organization with, in 2005, 52 sections worldwide and a presence in about 100 more. An International Council represents Amnesty's various sections, international networks and affiliated groups. It elects the International Executive Committee, which lays out the broad strategy of the organization. The International Secretariat, headed by a General Secretary, is responsible for the conduct and day-to-day affairs of the organization.

Significance: Amnesty primarily targets governments, seeking to free political and religious prisoners, ensure fair trials for those arrested, eliminate torture, the death penalty and other harsh punishments, and bring those who abuse human rights to justice. Its main weapons are publicity, education and political pressure. These are typically exerted by highlighting individual cases, in which Amnesty staff interview victims, encourage their 'adoption'

by Amnesty members and supporters who engage in a letter-writing campaign, and publish detailed reports. Such activities are supported by wider campaigns, current ones including those on terrorism and security, human rights in China, refugees and asylum, arms control, stopping violence against women, poverty and human rights, and stopping Internet repression. Since the 1970s, Amnesty has been increasingly involved in proposing and drafting human rights legislation, such as the UN's 1975 Declaration on Torture.

Amnesty is widely considered to be the single dominant force in the field of human rights advocacy, being more influential than most of the other groups put together (Alston 1990). In 1974, Sean MacBride, chair of the International Executive Committee, was awarded a Nobel Peace Prize, with Amnesty itself being awarded a Nobel Peace Prize in 1977 for 'having contributed to securing the ground for freedom, for justice, and thereby also for peace in the world'. The organization was awarded the UN Prize in the Field of Human Rights in 1978. Amnesty's strengths include its global public profile as the organization with the longest history and the broadest name recognition in the field of human rights. Its reputation is bolstered by an emphasis on painstaking investigations and impartial report writing. The self-imposed limited

mandate of Amnesty also has advantages. By focusing mainly on political prisoners, the organization has been able to build up a remarkable consensus about the justice of its cause as well as providing assistance to many victims. Amnesty therefore has a clear sense of purpose and, through success in individual cases, can bring a not infrequent sense of achievement to its members.

Amnesty has nevertheless been criticized on two main grounds. First, its self-acknowledged tendency to focus disproportionately on human rights abuses in relatively more democratic and open countries means that it has sometimes been condemned for giving too little attention to some of the world's worst human rights violations. Amnesty's justification for this bias is both that it is inclined to focus public pressure where it is most likely to make a difference and that it is concerned to build up credibility, and therefore influence, in the global South by ensuring that abuses in the North clearly receive attention. Second, Amnesty has been accused of ideological bias, sometimes linked to wider criticisms of the doctrine of human rights, by China, the Democratic Republic of the Congo, Russia, South Korea, the USA (over Amnesty's campaigns against the death penalty and the Guantanamo Bay prison camp) and the Catholic Church (over its stance on abortion).

reluctant states – by, for instance, pressure from NGOs, citizens' campaigns or international bodies – rather, they have been the creation of states themselves, or, more precisely, of particular states. The USA and other western states took a leading role in the establishment of the post-1945 human rights regime, supported from the 1990s onwards by many post-communist states and a growing number of developing world states. The main reason why human rights protection is more effective in Europe than elsewhere is simply because of the high degree of consensus among European states about the importance of human rights.

Why, then, have states accepted, and sometimes championed, the cause of human rights? Virtually all states, for example, have signed the UN Declaration, with a large majority of them also having signed the two optional international covenants. From a liberal perspective, support for international human rights is merely an external expression of values and commitments that are basic to liberal-democratic states. In this view, foreign affairs can, and should, have a moral purpose; the pursuit of national interests should operate in tandem with the global promotion of freedom and democracy. A further reason for states to sign human rights conventions and at least support the rhetoric of human rights is that, since 1948, this has been seen as one of the preconditions for membership of the international community, bringing diplomatic and possibly trade and security benefits. Support for human rights is therefore one of the common norms that has transformed the international system into an international society (see 10). This, nevertheless, allows for, at times, a significant gulf between the international standards that a state supposedly supports and how it actually behaves towards its own citizens and towards other states. In other circumstances, states may make cynical use of the human rights agenda. Realists, for instance, argue that, behind the cloak of humanitarianism and moral purpose, human rights are often entangled with considerations about the national interest (see p. 130). This is reflected in the selective application of human rights, in which human rights failings on the part of one's enemies receive prominent attention but are conveniently ignored in the case of one's friends. The USA was therefore criticized in the 1970s for condemning human rights violations in Soviet bloc countries, while at the same time maintaining close diplomatic, economic and political ties with repressive regimes in Latin America and elsewhere. For radical theorists, such as Chomsky (see p. 228), the USA has used human rights as a moral cloak for its hegemonic ambitions.

If the success of international human rights is judged in terms of whether they have served to improve the behaviour of states and other bodies and, in particular, helped to prevent acts of barbarism and systematic repression, the record is often unimpressive. When they conflict, as they often do, state sovereignty usually trumps human rights. This is particularly true in the case of powerful states, which may either simply be immune to human rights criticism, whether expressed internally or externally, or their transgressions are not forcefully exposed by other governments, for fear of damaging diplomatic relations and economic interests. There is little evidence that the Soviet Union was affected by condemnation of its human rights record, and a fear of criticism on such grounds certainly did not prevent the Warsaw Pact invasion of Hungary in 1956, the Soviet invasions of Czechoslovakia in 1968 and Afghanistan in 1979,

or Russia's brutal suppression of the Chechen uprising in the 1990s. On the other hand, human rights activism both inside and outside the Soviet bloc may have contributed more subtly to the eventual collapse of the East European communist regimes. It did this by fostering a growing appetite for political freedom, thereby helping to undermine the legitimacy of these regimes, and contributing to the wave of popular protest that spread across eastern Europe in 1989. It is also notable that Mikhail Gorbachev, the General Secretary of the Soviet Communist Party, 1985–91, used human rights rhetoric to justify his economic and political reforms as well as the realignment of the Soviet Union's relations with the rest of the world, arguing that human rights are principles that transcended the divide between capitalism and communism.

Since the Tiananmen Square protests of 1989, China has been a frequent target of human rights criticism, from the USA and from groups such as Amnesty International and Human Rights Watch. Human rights controversies in China have focused on its suppression of political dissent, its widespread use of capital punishment, its treatment of religious minorities such as supporters of Falun Gong, political repression in the predominantly Muslim provinces of north-western China, such as Xinjiang, and, most particularly, its occupation of Tibet and the systematic subjugation of Tibetan culture, religion and national identity. It is notable that China's emergence as an economic superpower has not been matched by an appetite for political reform. If anything, China has become more uncompromising on human rights issues, both as an expression of growing national assertiveness and in order to contain the pressures that have been unleashed by economic reform. Condemnation by other governments has also become increasingly muted as China's economic resurgence has become more evident.

As far as the USA is concerned, its commitment to human rights and humanitarian law was called seriously into question by its conduct of the 'war on terror' (see *Does the need to counter terrorism justify restricting human rights and basic freedoms?*, p. 299). For many, September 11 marked the culmination of the period initiated by the end of the Cold War in which the growing acceptance of human rights norms appeared to be irresistible. If the state that had been largely responsible for constructing the post-1948 international human rights regime appeared to violate human rights so clearly, what hope was there that other states would be recruited to the cause?

Human rights have been particularly difficult to uphold in conflict situations. In part, this reflects the fact that power politics amongst the permanent members of the Security Council usually prevents the UN from taking a clear line on such matters. The world has therefore often appeared to stand by as gross violations of human rights have taken place. This happened particularly tragically in the 1994 Rwandan genocide, in which about 800,000 mainly ethnic Tutsis and some moderate Hutus were killed, and in the 1995 Srebrenica massacre in which an estimated 8,000 Bosnian men and boys were killed. However, from the 1990s onwards, greater emphasis has been placed on extending international law to ensure that those responsible for the gross breaches of rights involving genocide (see p. 326), crimes against humanity and war crimes are brought to account. The role and effectiveness of international criminal tribunals and, since 2002, of the International Criminal Court (ICC) in dealing with human rights violations is discussed in Chapter 14.

Challenging human rights

Despite its growing prominence, the doctrine of human rights has come under growing pressure, particularly since the 1970s, from a variety of sources. The chief thrust of more recent attacks on human rights has been to challenge the universalist assumptions that underpin them, creating a battle between universalism and **relativism**. However, there are two grounds on which universalism has been condemned. The first of these views the universalist approach as philosophically unsound, while the second portrays it as politically damaging.

Philosophical backlash

The authority of universalist liberalism, which underpins the doctrine of human rights, has been challenged by two main philosophical developments in the West. From the perspective of communitarianism, liberalism is defective because its view of the individual as an asocial, atomized, ‘unencumbered self’ makes little sense (Sandel 1982; Taylor 1994). Communitarians emphasize, by contrast, that the self is embedded in the community, in the sense that each individual is an embodiment of the society that has shaped his or her desires, values and purposes. An individual’s experiences and beliefs cannot therefore be separated from the social context that assigns them meaning. This implies that universalist theories of rights and justice must give way to ones that are strictly local and particular. Similar conclusions have been reached by postmodern theorists, albeit on a different basis. Postmodernism has advanced a critique of the ‘Enlightenment project’, which was expressed politically in ideological traditions such as liberalism and Marxism that were based on the assumption that it is possible to establish objective truths and universal values, usually associated with a faith in reason and progress. Instead, postmodernists have emphasized the fragmented and pluralistic nature of reality, meaning that foundationalist thinking of any kind is unsound. In the words of Jean-François Lyotard (1984), postmodernism can be defined as ‘an incredulity towards metanarratives’. Human rights and other theories of universal justice must therefore either be abandoned altogether or be used only in a strictly qualified way that takes account of the political and cultural context within which the ideas emerged.

Postcolonial critiques

Whereas western concerns about human rights have been largely philosophical in orientation, postcolonial concerns have been more clearly political. Relativism has been defended by postcolonial thinkers on two grounds. First, in line with communitarian and postmodern thinking, postcolonial theorists have argued that circumstances vary so widely from society to society, and from culture to culture, as to require differing moral values and, at least, differing conceptions of human rights. What is right for one society may not be right for other societies, a position that suggests that the outside world should respect the choices made by individual nation-states. Secondly, and more radically, postcolonial theorists have portrayed universal values in general, and human rights in particular, as a form of cultural imperialism. Such thinking was evident in Edward Said’s *Orientalism* ([1978] 2003), sometimes seen as the most influential text of post-

● **Relativism:** The belief that ideas and values are valid only in relation to particular social, cultural and historical conditions, implying that there are no universal truths (epistemological relativism) or no universal values (moral or cultural relativism).

- The idea of human rights advances the notion that the similarities between and amongst human beings are greater than the differences. This implies that there is such a thing as a common humanity, of which each individual is an expression. Such a view treats national, cultural, social and other differences amongst human beings as, at best, secondary considerations.

Deconstructing . . .

‘HUMAN RIGHTS’

- Human rights are, at best, philosophical and moral constructs. No surgical operation is capable of exposing our human rights and of proving which ones we are entitled to. As there is no objective model of human nature, any conception of human rights is bound to be based on particular ideological and moral assumptions. Conceptions of human rights thus constantly evolve as they are deployed strategically in a global context, examples including ‘women’s human rights’.
- The idea of human rights suggests that people are essentially ‘rights bearers’, defined by the claims that they may make on others, rather than by their duties or obligations towards them. The notion of human rights is therefore not merely atomistic, implying that each individual is largely self-reliant, but it also legitimizes egoism and self-interest by implying that these are ‘human’ traits.

colonialism. Said (see p. 197) developed a critique of **Eurocentrism**, in which Orientalism ensures the cultural and political hegemony of Europe in particular and of the West in general through establishing belittling or demeaning stereotypes of the peoples or culture of the Middle East, although this is sometimes extended to include all non-western peoples.

Attempts to highlight the cultural biases that operate through the doctrine of ‘universal’ human rights have been particularly prominent in Asia and in the Muslim world. As discussed in Chapter 8, the Asian critique of human rights emphasizes the existence of rival ‘Asian values’, which supposedly reflect the distinctive history, culture and religious backgrounds of Asian societies. Key Asian values include social harmony, respect for authority and a belief in the family, each of which is meant to sustain social cohesion. As such, they challenge, and seek to counter-balance, the bias within traditional conceptions of human rights in favour of rights over duties, and in favour of the individual over community. A further difference is that, from an Asian values perspective, political legitimacy is more closely tied up with economic and social development than it is with democracy and civil liberty. Although those who have champi-

● **Eurocentrism:** The application of values and theories drawn from European culture to other groups or peoples, implying a biased or distorted viewpoint.

oned the idea of Asian values rarely reject the idea of human rights in principle, greater emphasis is usually placed on economic and social rights rather than on 'western' civic and political rights. The Bangkok Declaration of 1993, adopted by Asian ministers in the run-up to the Vienna World Conference on Human Rights, thus attempted a delicate balancing act by recognizing both the distinctiveness of Asian cultures and the interdependence and indivisibility of human rights. It is also notable that the Chinese government often responds to criticism of its human rights record by arguing that collective socio-economic rights are more important than civic and political rights, highlighting its success in relieving an estimated 300 million people from poverty.

Islamic reservations about human rights have been evident since Saudi Arabia refused to adopt the UN Declaration in 1948, on the grounds that it violated important Islamic principles, notably its rejection of apostasy (the abandonment or renunciation of one's religion). The basis of the Islamic critique of human rights, as outlined by the Cairo Declaration on Human Rights in Islam (1990), is that rights, and all moral principles, derive from divine, rather than human, authority. As such, the UN Declaration and, for that matter, any other human principles and laws are invalid if they conflict with the values and principles outlined in divine *Shari'a* law. Indeed, in principle, the former should derive from the latter. From this perspective, the doctrine of universal human rights is merely a cultural expression of the political and economic domination that the West has customarily exerted over the Middle East in particular, and the Muslim world in general. Indeed, many of the concerns raised by the Asian values debate have been echoed within Islamic political thought. These include concern about the secular nature of western societies, implying a lack of sympathy with, if not outright hostility towards, religion, and an excessive individualism that threatens traditional values and social cohesion. The West, in short, is morally decadent, and through the idea of human rights is in danger of foisting its moral decadence on the rest of the world. Nevertheless, the Islamic critique is not so much a form of cultural relativism as a form of alternative universalism, as Islam, like liberalism, contains supposedly universal codes that are applicable to all cultures and all societies.

HUMANITARIAN INTERVENTION

Rise of humanitarian intervention

The state-system has traditionally been based on a rejection of **intervention**. This is reflected in the fact that international law has largely been constructed around respect for state sovereignty, implying that state borders are, or should be, inviolable. Nevertheless, it has long been recognized that intervention may be justifiable on **humanitarian** grounds. Francisco de Vitoria (c. 1492–1546) and Hugo Grotius (see p. 334), for example, each acknowledged a right of intervention to prevent the maltreatment by a state of its own subjects, making them, effectively, early theorists of humanitarian intervention. Examples of such intervention, though traditionally rare, can also be found. In the Battle of Navarino Bay in 1827, the British and French destroyed the Turkish and Egyptian fleets off south-west Greece in order to support the cause of Greek independence. In the post-1945 period, interventions that had a significant humanitarian dimension

● **Intervention:** Forcible action taken by one state against another state, without the latter's consent.

● **Humanitarian:** Being concerned with the interests of humanity, specifically through a desire to promote the welfare or reduce the suffering of others; altruistic.

CONCEPT

Humanitarian intervention

Humanitarian intervention is military intervention that is carried out in pursuit of humanitarian rather than strategic objectives. However, the term is contested and deeply controversial, not least because by portraying an intervention as 'humanitarian', it is deemed to be legitimate and defensible. The use of the term is therefore necessarily evaluative and subjective. Nevertheless, some define humanitarian intervention in terms of intentions: an intervention is 'humanitarian' if it is motivated *primarily* by the desire to prevent harm to other people, accepting that there will always be mixed motives for intervention. Others define humanitarian intervention in terms of outcomes: an intervention is 'humanitarian' only if it results in a net improvement in conditions and a reduction in human suffering.

included those that occurred in Bangladesh and Cambodia. In 1971, the Indian army intervened in a brief but brutal civil war between East and West Pakistan, helping East Pakistan to gain its independence as Bangladesh. In 1978, Vietnamese forces invaded Cambodia to overthrow Pol Pot's Khmer Rouge regime, which had, during 1975–79, caused the deaths of between one and three million people due to famine, civil war and executions. However, none of these military actions were portrayed as forms of 'humanitarian intervention'. India and Vietnam, for instance, justified their interventions squarely in terms of the national interest and the need to restore regional stability. The modern idea of humanitarian intervention was a creation of the post-Cold War period, and it was closely linked to optimistic expectations of the establishment of a 'new world order'.

Humanitarian intervention and the 'new world order'

The 1990s are sometimes seen as the golden age of humanitarian intervention. The end of the Cold War appeared to have brought to an end an age of power politics, characterized as it was by superpower rivalry and a 'balance of terror'. Instead, a 'liberal peace' would reign, founded on a common recognition of international norms and standards of morality. Key to this was the belief that in a global age states could no longer restrict their moral responsibilities to their own peoples (Wheeler 2000). In order to explain the upsurge in humanitarian intervention in the early post-Cold War period, two questions must be answered. First, why did so many humanitarian emergencies arise? Second, why did other states intervene?

Optimistic expectations of the establishment of a world of peace and prosperity in the post-Cold War era were soon punctured by the growth of disorder and chaos in what were sometimes called the 'zones of turmoil' (Singer and Wildavsky 1993), or the 'pre-modern world' (Cooper 2004). However, such turmoil and disorder can be explained in two quite different ways. They can be explained in terms of *internal* factors, faults and failing within the society itself. These include dictatorial government, rampant corruption, entrenched economic and social backwardness and festering tribal or ethnic rivalries. On the other hand, they can be explained in terms of *external* factors, structural imbalances and inequalities within the global system. These include the inheritance of colonialism, strains generated by economic globalization and, sometimes, the impact of structural adjustment programmes (see p. 371) imposed by the International Monetary Fund (IMF) (see p. 469), the World Bank (see p. 373) and other bodies. To the extent to which humanitarian crises arise as a result of internal factors, intervention appears to be warranted as a way of saving the 'pre-modern world' from itself. However, if external factors have made a significant contribution to precipitating humanitarian emergencies, it is less easy to see how further interference, in the form of military intervention, would provide an appropriate solution.

Four factors help to explain a growing willingness by governments in the 1990s to intervene in situations in which humanitarian interests are at stake. In the first place, as realists and neorealists tend to argue, humanitarian considerations often overlapped with concerns about the national interest. The motives for humanitarian intervention are invariably mixed and complex. For example, US

KEY EVENTS . . .

Key examples of humanitarian intervention

- 1991** *Northern Iraq.* In the aftermath of the Gulf War, the USA launched Operation Provide Comfort to establish 'safe havens' for the Kurdish people in Northern Iraq by establishing a no-fly zone policed by US, UK and French aircraft.
- 1992** *Somalia.* On the brink of a humanitarian catastrophe, a UN-authorized and US-led intervention (Operation Restore Hope) sought to create a protected environment for conducting humanitarian operations in southern Somalia.
- 1994** *Haiti.* Following a military coup and in the context of growing lawlessness and accelerating Haitian emigration to the USA, 15,000 US troops were despatched to Haiti to restore order and help in the establishment of civil authority.
- 1994** *Rwanda.* Following the Rwandan genocide and once the Tutsi RPF had gained control of most of the country, the French established a 'safe zone' for Hutu refugees to flee to (Operation Turquoise).
- 1999** *Kosovo.* In a context of fears about the 'ethnic cleansing' of the Albanian population, a campaign of air strikes, conducted by US-led NATO forces, forced the Serbs to agree to withdraw their forces from Kosovo
- 1999** *East Timor.* As Indonesia stepped up a campaign of intimidation and suppression, a UN-authorized peacekeeping force, led by Australia, took control of the island from Indonesia (see Humanitarian intervention in East Timor, p. 323).
- 2000** *Sierra Leone.* After a prolonged civil war in Sierra Leone, the UK government sent a small force, initially to protect UK citizens, but ultimately to support the elected government against rebel forces that were being accused of carrying out atrocities.

intervention in Haiti was partly motivated by the desire to stem the flow of Haitian refugees to the USA. Similarly, NATO's actions in Kosovo were significantly affected by a wish to avoid a refugee crisis and also prevent regional instability that may, in time, have required more politically risky levels of intervention. The simple reality is that, aside from moral justifications, states remain reluctant to commit their troops in circumstances in which important national interests are not at stake. Second, in a world of 24/7 news and current affairs and global television coverage and communications, governments often came under considerable public pressure to act in the event of humanitarian crises and emergencies. This was particularly demonstrated by the impact of 'non-interventions', especially the failure to prevent the Rwandan genocide and the Srebrenica massacre. What is sometimes called the 'CNN effect', shows how global information and communication flows make it increasingly difficult for governments to restrict their sense of moral responsibility to their own people alone.

Third, the end of Cold War rivalry, and the emergence of the USA as the world's sole superpower, created circumstances in which it was much easier to build consensus amongst major powers favouring intervention. In particular, neither Russia, then suffering from the political and economic turmoil of the collapse of the Soviet Union, nor China, in the early phase of its economic emergence, were strongly minded to block or challenge the USA, the major driving force behind most interventions. Fourth, in view of high expectations about the possibility of building 'new world order', politicians and other policy-makers were more willing to accept that the doctrine of human rights lays down accepted standards for ethical conduct. For Kofi Annan, UN Secretary-General (1997–2007), and national politicians such as President Clinton in the USA, (1993–2001), and UK Prime Minister Blair (1997–2007), the idea of human rights provided the basis for attempts to establish when and where states had a 'right to intervene' in the affairs of other states. In her constructivist account of changes in states' behaviour with respect to military intervention, Martha Finnemore (2003) thus emphasized 'social influence plus internalization, in drawing attention to the impact of new norms about who is human and our obligations to save such people'.

Humanitarian intervention and the 'war on terror'

The 'war on terror' cast the issue of humanitarian intervention into a very different light. Whereas, before 2001, there was a growing belief that there had been too few humanitarian interventions – the failure to prevent massacres and barbarity in Rwanda and Bosnia served as a stain on the conscience of many in the international community – since then there has been the perception that there have been too many humanitarian interventions. This is because the controversial wars in Afghanistan and Iraq were both justified, in part, on humanitarian grounds. Strictly speaking, neither the Afghan War nor the Iraq War were examples of humanitarian intervention. In both cases, self-defence was the primary justification for military action, their purpose being to prevent 'future 9/11s' rather than 'future Rwandas'. However, supporters of the wars also, to a greater or lesser extent, portrayed them as humanitarian ventures. In the case of Afghanistan, the Taliban was seen to have established a brutal and repressive regime that, in particular, violated the rights of women, who were entirely excluded from education, careers and public life. In the case of Iraq, the Saddam regime was viewed as an ongoing threat to the Kurds in the north and the majority Shia population, both of whom had been subject to political exclusion and physical attack. 'Regime change' through the overthrow of the Taliban and Saddam Hussein therefore promised to bring about respect for human rights, greater toleration and the establishment of democratic government. In the process, supporters of the 'war on terror' further extended the doctrine of humanitarian intervention, but, arguably, contaminated the idea to such an extent that it has become more difficult to apply in other circumstances.

During the 1990s, humanitarian intervention was seen to have strictly limited objectives. Military action was taken in emergency conditions with the intention of restoring peace and order and of allowing humanitarian relief to be deployed. Intervention was generally not linked to the wider restructuring of society, even though in cases such as East Timor, Sierra Leone and Kosovo (by

contributing to the fall of Slobodan Milošević in 2000) one of the outcomes was the establishment of a multi-party democratic process. As used in Afghanistan and Iraq, however, the idea of humanitarian intervention was drawn into a larger project of **liberal interventionism**. Liberal interventionism is based on two assumptions. First, liberal values and institutions, notably market-based economies and liberal democracy (see p. 185), are universally applicable and superior to alternative values and institutions. Second, in circumstances where the advance of liberalism is being blocked by obstacles that the domestic population finds impossible to remove, notably a dictatorial and repressive government, established liberal states have a right, and maybe even a duty, to provide support. This support may take the form of diplomatic pressure, economic sanctions or, when basic human rights are being flagrantly violated, possibly military intervention. However, such intervention aims not merely to provide humanitarian relief but, further, to address the source of the problem: the government or regime that has become a threat to its own citizens. Liberal interventionists therefore link humanitarian intervention to the wider and more long-term goals of regime change and democracy promotion. Such ideas overlapped with and helped to inform the neoconservatism (see p. 226) that shaped the USA's strategic approach to the 'war on terror'.

However, its association with the 'war on terror' has created problems for the idea that intervention can and should be used to promote humanitarian or wider liberal goals. In the first place, many have argued that the human rights rationale for intervention in Afghanistan and Iraq was mere window-dressing. Despite the records of both the Taliban and the Saddam regimes, in neither case were there humanitarian emergencies or an imminent threat of genocidal massacres. Radical critics of the 'war on terror', indeed, argued that goals such as regime change and democracy promotion were only elements in a larger strategy of consolidating the USA's global hegemony and securing oil supplies from the Middle East. Second, the interventions in Afghanistan and Iraq proved to be considerably more problematical than initially anticipated, as both wars turned into protracted counter-insurgency struggles. This highlighted the danger of getting bogged down in an intervention, especially as domestic support for intervention tends, sooner or later, to weaken due to the so-called 'body bag effect', regardless of the motives behind it. Third, the 'war on terror' raised serious questions about the universalist assumptions that underpin liberal interventionism. Not only have doubts surfaced about the viability of imposing western-style democracy 'from above', but the wars in Afghanistan and Iraq also in many ways deepened tensions between the Islamic world and the West. If liberal values such as human rights and multi-party democracy are not universally applicable, it is difficult to see how consistent standards can be established for interventions that have a humanitarian or moral basis.

Such problems help to explain why it has been more difficult to mobilize support for humanitarian intervention since 2001. This is demonstrated by 'non-interventions' in places such as Darfur, Zimbabwe and Burma. Since 2004, the conflict in the Darfur region of western Sudan has led to the deaths of at least 200,000 people and forced more than 2.5 million to flee their homes in the face of atrocities and the destruction of villages. Nevertheless, the UN has left the task of peacemaking to a relatively small African Union Force. More systematic and concerted intervention has been prevented by the opposition of China and

● **Liberal interventionism:**

The theory that liberal values and institutions are universally applicable and (in appropriate circumstances) should be promoted by intervention in the affairs of other states.

GLOBAL POLITICS IN ACTION ...

Humanitarian intervention in East Timor

Events: East Timor (also known as Timor-Leste) was a Portuguese colony for over 300 years. It was invaded in 1975 by Indonesian troops, following the precipitous departure of Portugal. This led to the development of one of the longest and bloodiest guerrilla wars in history, in which about a third of East Timor's 650,000 inhabitants were killed through mass executions, bombings and, above all, starvation. Following the fall of the Indonesian dictator Suharto, the government agreed to hold a referendum in 1999, in which 75 per cent of East Timorese voted for independence. The Indonesian army and pro-Indonesian militias responded to this by stepping up their campaign of intimidation and suppression. However, this time, a combination of heightened attention from the world's media, the plight of more than 200,000 refugees, and a changed international climate following NATO's intervention in Kosovo and the UN's catastrophic inaction in Rwanda and Bosnia, brought about decisive action. With the reluctant consent of Indonesia, a multinational UN force (the International Force for East Timor, or INTERFET), under the aegis of Australia, was sent to East Timor in September 1999 to bring peace and support East Timorese efforts to achieve self-determination. In October, authority was handed over to a UN administration, which oversaw democratic elections for a Constituent Assembly in 2001. On 20 May 2002, East Timor formally gained its independence.

Significance: East Timor is sometimes used as a classic example of how forcible intervention, carried out by the international community, can bring positive results. INTERFET forces speedily brought an end to atrocities and civil unrest. The Indonesian armed forces and police withdrew from the territory and militia attacks were controlled. The United Nations' transitional administration in East Timor (UNTAET) provided interim civil administration in the period leading up to independence, providing a peacekeeping force to maintain security and order (with the largest contingents being provided by Australia and New Zealand), overseeing and coordinating the provision of humanitarian relief, helping to restore the physical infrastructure and creating structures for sustainable governance and the rule of law. By gaining independence and joining the United Nations in September 2002, East



Timor demonstrated that intervention by the international community is capable of establishing a new state of democratic credentials.

On the other hand, the history of post-independence East Timor suggests that the outcomes of humanitarian intervention can be highly problematical. In April 2006, violence broke out between rival military factions, the police and militias in the East Timorese capital, Dili. At the invitation of Prime Minister Alkatiri, Australia, Malaysia, New Zealand and Portugal sent troops to quell the unrest and restore civil order. For some, this was evidence that nation-building 'from above' is fraught with difficulties. East Timor may be yet another example of a failed post-colonial state, its newly-created institutions being fragile and incapable of upholding an effective rule of law. In such circumstances, East Timor would need years, possibly decades, more 'babysitting' from the UN. However, East Timor's faction-ridden military and police may also provide evidence of the difficulty of transforming the military wing of a national liberation movement into a non-political defence force, capable of respecting the distinction between military and political affairs. A further complication is that for much of the period following independence the government of East Timor was engaged in difficult and protracted negotiations with Australia over maritime and resource rights in the Timor Sea. These negotiations were only concluded in January 2006, and may have drained significant government resources and attention that could have been better devoted to strengthening state institutions and improving the capacity of governance.

Russia, a lack of public support for intervention in the USA while the wars in Iraq and Afghanistan persisted, and the UN's lack of resources and political will. In Zimbabwe during the 2000s, the regime of President Robert Mugabe presided over a country whose economy was in tatters, where poverty and unemployment were endemic and political strife and repression were commonplace. However, it has proved difficult to mobilize support for western intervention, not least because such action would have been perceived as a return to colonialism in many parts of Africa, and because of the opposition of South Africa, the major power in the area. In Burma, also known as Myanmar, a military junta has been in power since 1988, which has been accused of gross human rights abuses, including the forcible relocation of civilians, the widespread use of forced labour, including children, and the brutal suppression of political opposition. Nevertheless, despite widely being regarded as a **pariah state**, pressure for intervention in Burma has been restricted by the fact that it is not a threat to regional stability and by China's outright rejection of any form of western action.

Conditions for humanitarian intervention

Considerable attention has focused on the attempt to establish when, if ever, humanitarian intervention is justifiable. This reflects the fact that the case for humanitarian intervention requires that just war theory (see p. 257) is extended in bold and challenging ways. The moral challenges posed by humanitarian intervention include the following:

- It violates the established international norm of non-intervention, based on the idea of the 'inviolability of borders'. It is therefore difficult to reconcile humanitarian intervention with the conventional notion of state sovereignty, under which states are treated as equal and self-governing entities, exclusively responsible for what goes on within their borders. Any weakening of state sovereignty may threaten the established rules of world order.
- It goes beyond the just war idea that self-defence is the key justification for the use of force. Instead, in the case of humanitarian intervention, the use of force is justified by the desire to defend or safeguard others, people from different societies. Humanitarian intervention is therefore rooted in cosmopolitan ethical theories that allow states to risk the lives of their own military personnel in order to 'save strangers'.
- It is based on the idea that the doctrine of human rights provides standards of conduct that can be applied to all governments and all peoples. This may, nevertheless, take insufficient account of ethical pluralism and the extent to which religious and cultural differences across the world establish contrasting moral frameworks.
- It may allow the 'last resort' principle, basic to most versions of a just war, to be downgraded. Faced with the imminent danger of genocide or an ongoing humanitarian emergency, it may be morally indefensible to waste precious time exhausting all non-violent options before force can be justified. Instead, force may become a 'first resort' response.

● **Pariah state:** A state whose behavioural norms place it outside the international community, leading to diplomatic isolation and attracting widespread condemnation.

In view of such considerations, military intervention for humanitarian purposes must always be an exceptional and extraordinary measure. Without

- Describing such interventions as ‘humanitarian’ cloaks them in moral rightfulness and legitimacy. The term ‘humanitarian intervention’ thus contains its own justification: the interventions in question serve the interests of humanity, presumably by reducing suffering and death. At the very least the term is specious, in that it fails to acknowledge the invariable mixed and complex motives for intervention.

Deconstructing . . .

‘HUMANITARIAN INTERVENTION’

- ‘Intervention’ refers to various forms of interference in the affairs of others. It therefore conceals the fact that the interventions in question are, by their nature, military actions that involve the use of force and some level of violence. ‘Humanitarian military intervention’ or just ‘military intervention’ are thus preferred by some. ‘Humanitarian intervention’ could, in this light, be viewed as a contradiction in terms.
- The notion of ‘humanitarian intervention’ may reproduce important power asymmetries. Intervening powers (invariably developed western states) possess both power and moral benevolence whilst the people needing to be ‘saved’ (invariably in the developing world) are portrayed as victims living in conditions of chaos and barbarity (Orford 2003). The term thus reinforces the notion of modernization as westernization, even Americanization.

clear guidelines about when, where and how humanitarian intervention can and should take place, states will always be able to cloak their expansionist ambitions in moral justifications, allowing humanitarian intervention to become a new form of imperialism. Two key issues have attracted particular attention: the ‘just cause’ that warrants military intervention, and the ‘right authority’ that legitimizes the intervention in practice.

Although it is widely accepted that the doctrine of human rights provides a moral framework for humanitarian intervention, human rights do not in themselves provide adequate guidance about justifications for intervention. This is because human rights are many and various – the UN Universal Declaration of Human Rights (1948), for instance, contains 29 Articles – meaning that the ‘violation of human rights’ would legitimize intervention in a bewildering range of circumstances. A better guide is provided by the idea of ‘crimes against humanity’, a notion that emerged through the Nuremberg Trials at the end of WWII (see p. 335). However, the most widely used justification for humanitar-

CONCEPT

Genocide

Genocide is the attempt to destroy, in whole or in part, a national, ethnic, racial or religious group. The UN's Genocide Convention (1948) identifies five genocidal acts: (1) killing members of a group; (2) causing serious bodily or mental harm to members of the group; (3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (4) imposing measures intended to prevent births within the group; and (5) forcibly transferring children from the group to another group. Genocide must involve a definite decision, plan or programme to wipe out a particular group of people. It may overlap with 'ethnic cleansing', although the latter also includes forcibly relocating an ethnic group.

ian intervention is to stop or prevent genocide, viewed as the worst possible crime against humanity, the 'crime of crimes'. Nevertheless, it is difficult to see how genocide could provide a consistent and reliable 'just cause' threshold for humanitarian intervention. This is because genocide is usually viewed as a deliberate act, if not as a planned programme of slaughter and destruction, while many large-scale killings arise through random acts of violence or the total breakdown of political order without any party having 'genocidal intent'. The most thorough and considered attempt to establish principles for military intervention can be found in the report *The Responsibility to Protect* (R2P), produced by the International Commission on Intervention and State Sovereignty (ICISS), set up by the Canadian government in 2000. R2P outlines just two criteria for justifiable military action:

- *Large-scale loss of life*, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or
- *Large-scale ethnic cleansing*, actual or apprehended, whether carried out by killing, forcible expulsion, acts of terrorism or rape.

When these criteria are met, the ICISS asserts that there is not merely a right to intervene, but an international responsibility to protect those who are, or are in imminent danger of becoming, victims of these acts. Their advantage is that they are more specific than the more generalized idea of a 'crime against humanity', while also allowing for intervention to be triggered by 'large-scale loss of life' that is not the result of deliberate human action. Intervention can therefore be justified, for instance, in order to prevent people from starving to death, if their state is unable or unwilling to provide assistance.

However, once criteria for humanitarian intervention have been established, we are left with the question: who should decide when the criteria have been satisfied? Who has the 'right authority' to authorize military intervention for humanitarian purposes? The generally accepted answer to this question is that the most appropriate body is the UN Security Council. This reflects the UN's role as the principal source of international law and the Security Council's responsibility for maintaining international peace and security (as discussed in Chapter 18). Two difficulties arise from this, however. The first is that, as discussed further in Chapter 14, international law on humanitarian intervention hovers somewhere between its clear prohibition in the UN Charter, and its broad but ill-defined acceptance in customary international law. As these difficulties stem from the legal and moral implications of state sovereignty, supporters of humanitarian intervention have often sought to reshape the concept of sovereignty itself. While he was UN Secretary-General, Kofi Annan tried to reconcile the tension between sovereignty and human rights by arguing that, in a context of globalization and international cooperation, the state should be viewed as 'the servant of its people, and not vice versa' (Annan 1999). Such thinking has led to a growing acceptance of the idea of '**responsible sovereignty**'. The R2P, for instance, was fashioned in line with the ICISS recommendation that greater moral content be put into sovereignty, in that a state's right to sovereignty is conditional on fulfilling its duty to protect its citizens. In this view, the state is merely the custodian of a sovereignty that is ultimately located in the people.

● **Responsible sovereignty:**

The idea that state sovereignty is conditional upon how a state treats its citizens, based on the belief that the state's authority arises ultimately from sovereign individuals.

The second problem is that it may be difficult to gain Security Council authorization for intervention because its five 'veto powers' may be more concerned about issues of global power than they are with humanitarian concerns. The R2P principles acknowledge this problem by requiring that Security Council authorization should be *sought* prior to any military intervention being carried out, but accept that alternative options must be available if the Security Council rejects a proposal or fails to deal with it in a reasonable time. Under the R2P, these alternatives are that a proposed humanitarian intervention should be considered by the UN General Assembly in Emergency Special Session or by a regional or sub-regional organization. In practice, NATO (see p. 253) has often been used in such matters, helping to legitimize humanitarian interventions, and serving as the military machine that carries out interventions, as in Kosovo and Afghanistan.

Does humanitarian intervention work?

Do the benefits of humanitarian intervention outweigh the costs? In simple terms, does humanitarian intervention actually save lives? This is to judge intervention not in terms of its motives or intentions, or in terms of international law, but in terms of its outcomes. It is, nevertheless, a question that can never be finally settled, as this would require that *actual* outcomes can be compared with those that would have occurred in *hypothetical* circumstances (in which either an intervention had not taken place, or a possible intervention had occurred). The widespread assumption that earlier and more concerted intervention in Rwanda in 1994 would have saved, possibly, hundreds of thousands of lives, can thus never be proved. However, there are certain examples of interventions that produced beneficial outcomes that would have been unlikely in other circumstances. The establishment of a 'no-fly zone' in northern Iraq in 1991 not only prevented possible reprisal attacks and even massacres after the Kurdish uprising, but also allowed Kurdish areas to develop a significant degree of autonomy. The intervention in Kosovo in 1999 succeeded in its goal of expelling Serbian police and military from the area, helping to end a massive displacement of the population and prevent possible further attacks. As these two operations were carried out by NATO air strikes, they involved minimal casualties amongst intervening military personnel. Estimates of the civilians and combatants killed in Kosovo nevertheless range from 1,500 (NATO) to 5,700 (Serbia). Intervention in Sierra Leone was effective in bringing to an end a ten-year-long civil war that had killed about 50,000 people, and also in providing the basis for parliamentary and presidential elections, held in 2007.

However, other interventions have been far less effective. UN peacekeepers have sometimes been sidelined as humanitarian catastrophes have occurred (the Congo), while other interventions have been quickly abandoned as unsuccessful (Somalia), or have resulted in protracted counter-insurgency struggles (Afghanistan and Iraq). The deepest problem here is that interventions may do more harm than good. To replace old dictators with foreign occupying forces may only increase tensions and create a greater risk of civil war, which then subjects civilians to a state of almost constant warfare. If civil strife results from an effective breakdown in government authority, foreign intervention may make things worse not better. Thus, while political stability, democratic governance

Debating . . .

Is humanitarian intervention justified?

Humanitarian intervention is one of the most hotly disputed issues in global politics. While some see it as evidence that world affairs are being guided by new and more enlightened cosmopolitan sensibilities, others view humanitarian intervention as deeply misguided and morally confused.

YES

Indivisible humanity. Humanitarian intervention is based on the belief that there is a common humanity. This implies that moral responsibilities cannot be confined merely to one's 'own' people or state, but extend, potentially, to the whole of humanity (see p. 80). There is therefore an obligation to 'save strangers', if the resources exist to do so and the cost is not disproportionate.

Global interdependence. The responsibility to act in relation to events on the other side of the world is increased by a recognition of growing global interconnectedness and interdependence. States can no longer act as if they are islands. Humanitarian intervention can therefore be justified on grounds of enlightened self-interest; for example, to prevent a refugee crisis that may create deep political and social strains in other countries.

Regional stability. Humanitarian emergencies, especially in the context of state failure, tend to have radical implications for the regional balance of power, creating instability and wider unrest. This provides an incentive for neighbouring states to support intervention, with major powers opting to intervene in order to prevent a possible regional war.

Promoting democracy. Intervention is justified in circumstances in which endangered or suffering people do not possess the democratic means to alleviate their own hardship. Humanitarian interventions therefore invariably take place in a context of dictatorship or authoritarianism. 'Democracy promotion' is a legitimate long-term goal of intervention, as it will strengthen respect for human rights and reduce the likelihood of future humanitarian crises.

International community. Humanitarian intervention provides not only demonstrable evidence of the international community's commitment to shared values (peace, prosperity, democracy and human rights), but also strengthens these by establishing clearer guidelines for the way in which governments should treat their people, reflected in the principle of 'responsible sovereignty'. Humanitarian intervention thus contributes to the development of a rule-bound global order.

NO

Against international law. International law only clearly authorizes intervention in the case of self-defence. This is based on the assumption that respect for state sovereignty is the surest, if still an imperfect, means of upholding international order. To the extent that intervention for humanitarian purposes is permitted, international law becomes, at best, confused and the established rules of world order are weakened.

National interests rule. As realists argue, since states are always motivated by concerns of national self-interest, their claim that military action is motivated by humanitarian considerations is invariably an example of political mendacity. On the other hand, if an intervention were genuinely humanitarian, the state in question would be putting its own citizens at risk in order to 'save strangers', violating its national interests.

Double standards. There are many examples of pressing humanitarian emergencies in which intervention is either ruled out or never considered. This can happen because no national interest is at stake, because of an absence of media coverage or because intervention is politically impossible (for example, Chechnya and Tibet). This makes the doctrine of humanitarian intervention hopelessly confused in political and moral terms.

Simplistic politics. The case for intervention is invariably based on a simplistic 'good v evil' image of political conflict. This has sometimes been a consequence of distortion (the exaggeration of atrocities, for example), but it also ignores the moral complexities that attend all international conflicts. Indeed, the tendency to simplify humanitarian crises helps to explain the tendency towards 'mission drift' and for interventions to go wrong.

Moral pluralism. Humanitarian intervention can be seen as a form of cultural imperialism, in that it is based on an essentially western notion of human rights that may not be applicable in other parts of the world. Historical, cultural and religious differences may therefore make it impossible to establish universal guidelines for the behaviour of governments, making the task of establishing a 'just cause' threshold for intervention unachievable.

and respect for human rights may all be desirable goals, it may not be possible for outsiders to impose or enforce them. There may, in other words, be little that can be done to alleviate the horrors of Darfur, Burma or Zimbabwe. From this perspective, humanitarian intervention should be looked at, at the very least, from a long-term perspective and not become a knee-jerk reaction to a humanitarian emergency and growing public pressure for 'something to be done'. Many humanitarian interventions have failed because of inadequate planning for reconstruction and an insufficient provision of resources for rebuilding. The R2P principles therefore place an emphasis not merely on the 'responsibility to protect', but also on the 'responsibility to prevent' and the 'responsibility to rebuild'. Long-term progress in such matters has therefore been increasingly linked to efforts to achieve peace-building (see p. 445) or nation-building, as discussed in Chapter 18.

SUMMARY

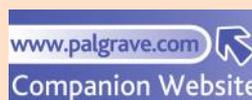
- Human rights are supposedly universal, fundamental, indivisible and absolute. Distinctions are nevertheless drawn between civil and political rights, economic, social and cultural rights, and solidarity rights. Human rights imply that national governments have significant foreign domestic obligations, and that justice has acquired a cosmopolitan character.
- Human rights are protected by an elaborate regime that involves an expanding array of international human rights documents, with supporting UN bodies, a wide range of human rights NGOs and states committed to advancing human rights. Nevertheless, states are also the greatest human rights abusers, reflecting an inherent tension between human rights and states' rights.
- Since the 1970s, the universalist assumptions that underpin human rights have come under growing pressure. Communitarians and postmodernists argue that human rights are philosophically unsound because morality is always relative. Postcolonial theorists often view the doctrine of human rights as an example of western cultural imperialism, even though they may accept the broad notion.
- Humanitarian intervention is military intervention carried out in pursuit of humanitarian rather than strategic objectives. It flourished in the 1990s due to the liberal expectations linked to the prospect of a 'new world order' and the (temporary) hegemony of the USA. However, deep concerns have been thrown up about humanitarian intervention by US military involvement in Afghanistan and Iraq.
- The R2P has laid down conditions for humanitarian intervention, based on a large-scale loss of life, possibly due to ethnic cleansing, where the state in question is unwilling or unable to act itself. Such thinking has often involved attempts to reconceptualize sovereignty, particularly through the idea of 'responsible sovereignty'.
- Humanitarian intervention works when its benefits exceed its costs, in terms of lives lost and human suffering. Although this calculation is difficult to make in objective terms, there have clearly been examples of successful intervention. Other interventions, however, have possibly done more harm than good, sometimes because of the intractable nature of underlying economic and political problems.

Questions for discussion

- How do human rights differ from other kinds of rights?
- Are economic and social rights genuine human rights?
- To what extent have NGOs been effective in ensuring the protection of human rights?
- Is the tension between states' rights and human rights irresolvable?
- Are human rights simply a form of western cultural imperialism?
- Why did humanitarian interventions increase so markedly in the 1990s?
- Is military intervention ever truly 'humanitarian'?
- Can humanitarian intervention ever be reconciled with the norm of state sovereignty?
- Does humanitarian intervention merely reinforce global power asymmetries?

Further reading

- Donnelly, J. *Universal Human Rights in Theory and Practice* (2003). A wide-ranging examination of human rights which considers their significance in the light of key post-Cold War issues.
- Dunne, T. and N. J. Wheeler (eds) *Human Rights in Global Politics* (1999). An excellent collection of essays that explore the philosophical basis for, and the political implications of, the doctrine of universal human rights.
- Hehir, A. *Humanitarian Intervention: An Introduction* (2009). An accessible and comprehensive overview of the history, theory and practice of humanitarian intervention.
- Weiss, T. G. *Humanitarian Intervention: Ideas in Action* (2007). A wide-ranging account of the issue of humanitarian intervention that defends the 'restrictive' criteria established by the R2P.



Links to relevant web resources can be found on the *Global Politics* website