Learning Objectives

• Describe the religious, philosophical, and historical foundations of human rights.

• Explain the roles that states, IGOs, and NGOs perform in the protection and monitoring of human rights.

• Identify what human rights have been protected under international law.

• Analyze why the international community so often has failed to respond to allegations of genocide.

• Analyze why women’s human rights in the private sphere are so difficult to address.

• Explain the concept of the R2P norm.
Religious, Philosophical, and Historical Foundations

- Human rights have a long history throughout some of the world’s most important religious, philosophical writings and key historical documents.
- All the world's great religions assert the dignity of individuals and people's responsibilities to their fellow human beings.
- Liberal political theorists assert individual rights that the state can neither usurp nor undermine.
Four major debates have emerged over the years
• Are these really human rights? Are they Inalienable? Are they nonnegotiable and necessary for life?
• If human rights are universal, are they applicable to all peoples, in all states, religions, and cultures, without exception?
• Should some rights be prioritized over others?
  • Cultural relativism—some rights are relevant in specific cultural setting.
• Who has the responsibility and the right to respond to violations of human rights?
Human Rights: Protecting Human Dignity

➢ Basic concepts

• **First-generation rights**: Individual Rights - include political and civil rights, such as freedom of speech. No individual should be deprived of these freedoms by the government.

• **Second-generation rights**: Societal of socioeconomic rights- which the state should provide, such as education and an adequate standard of living (health care, jobs).

• **Third-generation rights**: group Rights- rights of specific groups, including minorities, women, and children.
Historical Human Rights

➢ Political and civil rights that states should provide
  • Freedom of speech and assembly, security, and protection of the press

➢ Enshrined in historical documents, such as:
  • The Magna Carta, 1215
  • The French Declaration of the Rights of Man, 1789
  • U.S. Bill of Rights, 1791

➢ No individual should be deprived of these rights.
Human Rights: First-Generation Rights - Individual Rights

- The concept that individuals should receive certain protections from their governments emerged in the eighteenth century and was embodied in the American Bill of Rights (1791) and the French Declaration on the Rights of Man (1789).

- These first-generation human rights emphasized individual political and civil rights. While these rights were initially limited to certain groups of men, gradually they expanded to include women and individuals regardless of race.
Historical Human Rights

➢ Human Rights: First-Generation Rights - Individual Rights
   ▪ The English Enlightenment gave us the concept that man should be ruled by reason and knowledge, and not by fear and superstition.
   ▪ The people have rights that cannot be taken away by government and that government exists because the people have given their consent to the government.
   ▪ The ideas of individual rights starts with the Magna Carter or “Great charter of 1215.
Historical Human Rights

➢ Human Rights: First-Generation Rights - Individual Rights

▪ The Magna Carta signed by King John of England in 1215:
  • Put down in writing that freemen/nobility had certain rights that the monarch could not take away.
  • Individuals had the right not to be imprisoned without legal justification.
  • Individual had the right to a trial by jury with judgment by one’s peers.
  • Clause 29 The origins of trial by jury.
Historical Human Rights

➢ Human Rights: First-Generation Rights - Individual Rights

- English Bill of Rights 1689-Declaration of rights and liberties of Englishmen.
  - Freedom of speech, No excessive bail, Free election.
  - No taxes without Parliaments consent.

- Virginia Declaration of Rights- was drawn upon by Thomas Jefferson for the opening paragraphs of the Declaration of Independence. It was widely copied by the other colonies and became the basis of the Bill of Rights. Written by George Mason, it was adopted by the Virginia Constitutional Convention on June 12, 1776.
  - That all men are by nature equally free and independent and have certain inherent rights.
  - That all power of execution of laws, by the consent of the people via their representatives.
Historical Human Rights

➢ Human Rights: First-Generation Rights - Individual Rights

▪ The Declaration of Independence, 1776
  • Philosophical document stating that certain rights were unalienable, that is cannot be taken away by government.
  • All men are created equal possessing the same natural rights.
  • Right to life, liberty, the pursuit of happiness.
  • Government are instituted by man deriving their just power from the consent of the govern.
  • Listing the colonists' grievances against the King to show the legitimacy of their actions to others.
  • Political document explaining that since the king has violated those rights, the colonists had the right to separate.
Human Rights: First-Generation Rights - Individual Rights

- Bill of Rights 1791
  - Written by James Madison in response to calls from the several states for greater constitutional protection for individual liberties.
  - First ten amendments to the U.S. constitution.
  - Bill of Rights is a list of limits on government power:
    - Prevents the government from abridging speech, the press, self protection, unreasonable searches and seizures, due process of law, trial by jury, excessive bail, establishing a national religion, authority of the people and of the states.
Historical Human Rights

➢ Human Rights: First-Generation Rights - Individual Rights
  ▪ Declaration of the Rights of Man – 1789
    • Foundational document of the French Revolution.
    • Influenced by Thomas Jefferson and the Marquis de Lafayette.
    • The natural rights of man are held to be universal and valid at all times and in every place.
    • Men are born free and equal in rights.
    • Natural rights of each man has no limit as long as you do not deny another the same rights.
    • Due process of law, trial by jury, self recrimination, rule of law. Asserts the principal of Popular Sovereignty.
Human Rights Provided By States

➢ Human Rights: Second-Generation Rights - Societal Rights
➢ Rights that states should provide for individuals
  • Decent education, work, health care, and standard of living.
  • Rights with a focus on “the material”.
➢ Heavily influenced by Karl Marx’s writings and critical social theorists.
Human Rights Provided By States

➢ Human Rights: Second-Generation Rights - Societal Rights

• Societal rights emerged in the nineteenth century as a result of intellectuals defending the working class. Workers in the nineteenth century were often paid very poor wages and worked in dangerous working conditions.

• Second-generation human rights emphasized the importance of individuals having certain economic and material rights, such as the right to shelter, employment, education, and health care.

• These rights gained added significance in the early-to-mid twentieth century.

• Guaranteeing these rights may entail significant cost for governments
Human Rights of the Marginalized

➢ Human Rights: Third-Generation Rights - Group Rights

➢ Broad spectrum of rights that states should provide to minorities and the historically marginalized as well as to the collective.
  • Consists of rights for refugees, ethnic minorities, women, indigenous peoples, and people of different sexual orientations.
  • Collective rights include the right to development and the right to a clean environment.

➢ Third-generation rights are highly contested in states and the international arena.
Human Rights of the Marginalized

➢ Human Rights: Third-Generation Rights - Group Rights

• Group rights gained added significance after World War II as efforts began to protect members of racial, ethnic, and religious minorities.

• World War II demonstrated the horror that could occur as a result of racial discrimination. Protection of these groups can be considered third-generation rights.

• In addition to protection of such groups, other groups that have been the victims of particular discrimination include women and lesbians, gays, bisexuals, and transgendered individuals.
Human Rights of the Marginalized

➢ Human Rights: Third-Generation Rights - Group Rights
  • Leaders in some countries argue that protection of certain group and minority rights, including rights of women and LGBT rights, run counter to their cultures, raising the issue of cultural relativism.
  • Are these rights truly universal or simply attempts by the West to impose its values on others?
Antislavery movement
- Eighteenth-century abolitionists.
- 1815 Congress of Vienna—Anti-slavery movement.
- U.S. Civil War.
- Spain abolished slavery in Cuba in 1880.
- Brazil ended slavery 1888.
- The International Convention on the Abolition of Slavery was ratified in 1926.
Geneva Conventions of the nineteenth and twentieth centuries:
• Aim of protection of noncombatants during wartime.

Geneva Conventions:
• I: protection of the wounded in the armed forces
• II: protection of the wounded at sea
• III: protection of prisoners of war
• IV: protection of noncombatants during wartime

Slow evolution of human rights until World War II; the horrors of the war provided motivation to focus on human rights.
After World War II, there was a moral demand for international action to protect basic freedoms.

UN Universal Declaration of Human Rights of 1948
- 30 principles stating both economic & political rights

International Bill of Rights of 1976 composed of
- The International Covenant on Economic, Social, and Cultural Rights
- The International Covenant on Civil and Political Rights
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<td><strong>CONVENTION</strong></td>
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<td><strong>GENERAL HUMAN RIGHTS</strong></td>
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<td>International Covenant on Civil and Political Rights</td>
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<td><strong>RACIAL DISCRIMINATION</strong></td>
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<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<td><strong>HUMAN TRAFFICKING AND OTHER SLAVE-LIKE PRACTICES</strong></td>
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<td>UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others</td>
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<td><strong>REFUGEES AND STATELESS PERSONS</strong></td>
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<tr>
<td>Convention Relating to the Status of Refugees</td>
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<td><strong>CHILDREN</strong></td>
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<td>Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment</td>
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<td><strong>OTHER</strong></td>
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<td>Convention Concerning Indigenous and Tribal Peoples in Independent Countries</td>
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<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</td>
<td>1990</td>
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<tr>
<td>Convention on the Rights of Persons with Disabilities</td>
<td>2007</td>
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*Sources: University of Minnesota Human Rights Library and UN High Commissioner for Human Rights.*
States as Protectors of Human Rights

➢ Westphalian tradition: states are primarily responsible for protecting human rights standards within their own jurisdiction

➢ Many liberal democratic states have based human rights practices on first-generation political and civil liberties. Why is this?
  ● Realist explanation: states that share ideals will trade with one another and less likely to go to war.
  ● Liberal explanation: states desire those values and beliefs to be projected abroad.
State Tactics to Protect Human Rights

What can states do if they believe the human rights of individuals in another state are not being protected?

• Use their legal system.
• Use positive incentives or engagement/diplomacy
• Use negative sanctions.
• Unilateral or multilateral use of force
States as Abusers of Human Rights

➢ Authoritarian or autocratic states are more likely to abuse political and civil rights.
➢ Less developed states may be unable or unwilling to meet basic obligations of social and economic rights due to scarce resources or lack of political will.
➢ State security often prevails over individual rights.
➢ Political-civil rights may be repressed in times of economic strife, in order to divert attention from the economy.
➢ Culture and history affect a state’s human rights record.
The Role of the International Community—IGOs and NGOs

➢ Set human rights standards (United Nations)
➢ Monitor standards
➢ Establish complaint procedures
➢ Compile reports on state behavior
➢ Investigate alleged violations
➢ Promote education about human rights (United Nations, nongovernmental organizations)
The Role of the International Community—IGOs and NGOs

➢ Monitor elections; provide focal point via UN High Commissioner for Human Rights
➢ Enforce standards through embargoes, sanctions, and armed forces (United Nations, states)
The Key Role of Human Rights NGOs

➢ Constructivists: spread ideas
➢ Publicize issues and abuses
➢ Pressure states (offenders and enforcers)
➢ Lobby organizations (IGOs) capable of taking action
➢ Quickly disseminate information via the Internet

• Examples: Amnesty International, International Committee of the Red Cross, Human Rights Watch
Enforcement Problems

➢ A state’s signature on treaties is no guarantee of its willingness or ability to enforce treaty provisions.
➢ Monitoring via self-reporting presumes a willingness to comply and be transparent.
➢ Economic embargoes may not achieve changes in human rights policy and may hurt those whom embargoes are intended to help.
➢ Military action may cause unintended casualties.
Enforcement Problems

➢ Enforcement problems for the international community.
➢ Why do states fail to respond decisively to massive human rights atrocities?
   ▪ Realists argue that states have determined it is not in their national interest to respond to violations that do not threaten their own security; material interests drive state responses.
   ▪ Liberals generally see it as a state's duty to intercede in blatant cases of human rights abuse; however, this interest may conflict with other interests. They prefer nonstate actors to take the lead.
The Problem of Genocide and Mass Atrocities

➢ The problem of genocide and mass atrocities
  • The term genocide was coined to describe the mass killing of Armenians in 1915.
  • In 1948, in the wake of World War II, the Convention on the Prevention and Punishment of Genocide was adopted:
    • The perpetrator of the genocide has to have the intention to kill; the killing or maiming is not an unintended result of violence or a random act.
    • The target of the violence must be a national, ethnical, racial, or religious group.
The Problem of Genocide and Mass Atrocities

➢ The problem of genocide and mass atrocities
➢ Vague: does not specify how many people have to be killed or what evidence is necessary to prove intentionality
➢ Provides no permanent body to monitor potential genocides or any system for early warnings
➢ Despite this convention, the international community has failed to act decisively in several instances of purported genocide, such as in the former Yugoslavia and in Rwanda.
➢ At times the international community just sat back and watched:
   • Rwanda, Kosovo, Darfur
The Genocide Convention

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

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

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

**ARTICLE 3** The following acts shall be punishable:

(a) Genocide;
(b) Conspiracy to commit genocide;
(c) Direct and public incitement to commit genocide;
(d) Attempt to commit genocide;
(e) Complicity in genocide.
BOX 10.2

Crimes against Humanity

ARTICLE 7 of the Rome Statute of the International Criminal Court reads as follows:
For the purpose of this Statute, “crime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
(a) Murder;
(b) Extermination;
(c) Enslavement;
(d) Deportation or forcible transfer of population;
(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
(f) Torture;
(g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
(i) Enforced disappearance of persons;
(j) The crime of apartheid;
(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.
Punishing the Guilty

➢ The U.N. established ad hoc tribunals for Yugoslavia and Rwanda developing procedures to deal with issues involved in these cases: Jurisdiction, Evidence, Sentencing, and Imprisonment.

➢ International Criminal Court (ICC) is a permanent court established in 2003 to covers four types of crimes: Genocide, Crimes against humanity, War crimes, and Crimes of aggression.
  • No individuals are immune from jurisdiction, including heads of states and military leaders.
  • Many African heads of state feel unfairly targeted by the ICC.
  • Some states, including the United States, feel that ICC impinges on state sovereignty and may make its president or military personnel subject to prosecution, have refuse to sign the treaty.
Women’s Rights as Human Rights

➢ The UN reports that violence against women and girls “persists at alarmingly high levels”
➢ Post–World War II emphasis on political and civil rights.
➢ 1960s–1970s: increasing concern for economic rights.
   • Women in development movement.
➢ 1990s: global conferences on women include gender-based violence.
   • Includes both public- and private-sphere rights.
Women’s Rights: From the Public to the Private Sphere

➢ “The human rights of women and of the girl-child are an inalienable, integral, and indivisible part of human rights” (Vienna Declaration, 1993).

➢ Political, civil, economic, and social rights in the public sphere.

➢ Gender-based violence in the private sphere
  • Domestic violence, rape (wartime and peacetime), trafficking
  • In 1998 a Rwanda tribunal ruled that rape is not only a crime against humanity but also genocide.

➢ The higher the level of violence against women, the more likely the state is involved in interstate and intrastate conflict.
Humanitarian Intervention and R2P

➢ The norm of R2P not only obligates states to take coercive action against state offenders but also obligates states to protect people by providing asylum and refuge.

➢ Military action to stop massive violations of human rights may be just and necessary (humanitarian intervention).
   • Contradicts and erodes the Westphalian view of state sovereignty.
   • Why do we see selective bias?
Humanitarian Intervention and R2P

➢ Responsibility to protect (R2P): in cases of massive violations of human rights, when domestic avenues for redress have been exhausted, states have a responsibility to intervene.

• How massive do the violations have to be?
• Are UN Security Council authorizations necessary?
• Could states have ulterior motives?
  • Putin invoked R2P when annexing Crimea.
Contending Perspectives on Human Rights Abuses

➢ What explains the lack of decisive action in responding to human rights abuses?

➢ For realists there is a lack of national interest (national security).

➢ Liberals are more likely to advance intervention, but scale and timing are important.
  • They are more likely to use NGOs and other international actors for intervention.

➢ Constructivists emphasize ideational changes in the realm of human rights and the idea of conditional sovereignty.
Key Terms

➢ Crimes Against Humanity - acts of war against a civilian population; these can include, among others, the crimes of murder; enslavement; deportation or forcible transfer; imprisonment; torture; rape, sexual slavery or any other form of enforced sexual violence; persecution on political, racial, national, ethnic, cultural, religious, gender, or other such grounds; enforced disappearance; apartheid; and other inhumane acts that create great suffering or serious mental or physical injury.
Key Terms

➢ Cultural Relativism - the idea that human rights are not truly universal and that different cultures have different systems of rights. This term particularly comes into play when non-Western societies argue that international human rights standards have a Western bias and do not reflect non-Western values.

➢ Genocide the intentional extermination of an entire set of people (such as a nation, an ethnic group, a religion, a cultural group, etc.) because of who they are.
Key Terms

➢ Humanitarian Intervention – Military action by states and the international community to alleviate massive violations of human rights.


➢ Responsibility to Protect (R2P) – Idea that states and the international community have a responsibility to intervene in the domestic affairs of a state that has failed to protect its own citizens by being involved in massive violations of human rights.