Human rights in international relations

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Reader's Guide

Human rights have become firmly enmeshed in both the practice and study of international relations. Dominant theories of international relations explain the role of such rights in significantly different ways, and it is evident that their major claims carry persuasive arguments, indicating an uneasy juxtaposition of state sovereignty with ideas of a universal moral order. While the Cold War prevented the immediate focus on human rights that the United Nations system warranted, the growth of the UN's international human rights regime and the rise of international non-governmental organizations and human rights activists enabled a closer insertion of human rights into state diplomatic practices, a development that revealed the existence of human rights contestation itself as part of the Cold War. The ending of the Cold War heralded a 'springtime' for human rights and liberalism, but the advent of the 'war on terror' has also shown that the cascade of human rights norms might also be open to reversion, as particular states reinterpret or reject previously espoused principles. These developments raise important questions about state practice and human rights. While some norm reversion is occurring, it remains the case that states continue to be confronted with human rights challenges and display, to varying degrees, evidence of human rights protection at home and promotion abroad. Although much attention is rightly focused on changes to the internalization of such norms (such as reinterpretations of the Convention Against Torture or the restrictions of civil liberties in domestic arenas), we are also seeing an important evolution of concepts and practices on protecting human rights at the international level. This is visible in formulations such as the 'responsibility to protect' and its attendant focus on intervention to protect human rights, and also in the recognition that the prevention of human rights abuses is vitally important.

Introduction

The prevalence of human rights in contemporary debates about world politics presents something of a puzzle to many academicians working in international relations (IR). In a geopolitical world that is dominated by states' claims to exclusive authority in their domain, human rights are a polite fiction. At least, such is the claim by political realists who have been the dominant voice in IR since the emergence of the discipline.

As we show in the first section of the chapter, realists do not have it all their own way. Liberal thinking in IR argues that it is rational for states to pursue policies congruent with human rights principles. Constructivists are also critical of realism, although for different reasons. According to them, states pursue human rights goals for reasons to do with their identity and status. The fact that there is a lively debate among the main theories of IR as to what human rights are and why actors promote them reveals an important philosophical issue about the difference between 'reality' and our theories that interpret and explain it.[1]

The second section of this chapter focuses on key controversies over human rights as understood in the discipline of IR. The first of these concerns the mismatch between the importance attached to human rights at the declaratory level and the prevalence of human rights abuses in reality. What explanation can be given for this double standard? One set of answers relates to the weak monitoring and enforcement mechanisms in the international human rights regime. Another takes us back to the question of state **sovereignty**, particularly the unrelenting tendency on the part of elites to support narrow national and class-based interests over universal values of justice and fairness. These controversies are discussed in accordance with the development of human rights norms in modern international society.

The third section follows organically from the narrative about the human rights story in international relations. If we are to take seriously the claim that there is a global human rights culture, then we are entitled to ask what duties that imposes upon states and other actors to protect the rights of others when they are being systematically denied. The discussion will focus on two dimensions of international responsibility. The first is the duty of protection that is incumbent on all states in light of their obligations under the various human rights covenants. In this discussion, protection applies to the 'internal' dimension of the norm of sovereignty as responsibility. The second dimension of international responsibility relates to the duty that falls on states to act as humanitarian rescuers in instances where a state is collapsing or a regime is committing gross violations of human rights.

Theoretical Issues and Context

It is commonplace in the mainstream study of IR to claim that the subject matter is 'the world of sovereign states'. It is also commonplace in mainstream IR to treat states as rational actors who seek to maximize their power or security. Both assumptions follow from what IR scholars call the assumption of *anarchy*. By this term, what is being signified is not a permanent state of war but rather the absence of an 'international state' that has the power and the authority to impose a just peace.

A good illustration of the problem of anarchy can be gleaned from Hobbes's description of how order emerges from a state of nature. In his famous book *Leviathan*, written in 1651, just as the states system was beginning to take hold in Europe, Hobbes argued that a state was a necessary condition for a durable domestic political order. The state was justified in terms of a bargain between the government, whose duty it was to provide security, and the people, who consented to obey the will of the sovereign.

Hobbes rightly argued that states did not stand in relation to one another in the same way that individuals related to one another in a state of nature. To begin with, they were fewer in number, and the vast inequality between the strongest and the weakest meant that

conflicts would be short lived. Despite these differences, the Hobbesian world view is a continual reminder of the limits to cooperation—and the ever present possibility of conflict—in a decentralised system where there is no 'global Leviathan' to watch over sovereign states.

Realism

If we accept this as a starting point, then the landscape of world politics immediately seems inhospitable to human rights. The **realist** world is one where rules are regularly broken, and agreements last only as long as they benefit the contracting parties. As Hobbes put the problem with characteristic clarity, treaties that are not imposed by force 'are but words'.

Today's realists continue to believe that, for the most part, the diplomacy of human rights is just talk. They understand that human rights are part of the vocabulary of modern international society: after all, no state leader openly challenges the principles underpinning the human rights regime. The realist contention is that, when push comes to shove, human rights are very low on the list of national policy goals. This explains the prevalence of *double standards* in international diplomacy, whereby political leaders pay lip service to protecting human rights while at the same time allowing these principles to be undermined by the pursuit of other goals. In other words, in the final analysis, unless the promotion of human rights is in the *national interest* why would it be rational for states to pursue such goals?

The condition of international anarchy and the pursuit of the national interest are two significant reasons why realists are sceptical about human rights. A third reason is an ethical objection to the assumption of a universal morality that is in many ways the bedrock of the existing human rights regime. As the great realists of the early part of the twentieth century argued (Carr, 1946; Morgenthau, 1948), exhortations to obey the universal moral law are simply techniques to hide the pursuit of narrow selfish interests. All great powers in history have articulated universal claims: we should not be surprised if such measures benefited the dominant power. Such a convenient linkage between universal morality and the national interest was evident in the justifications for colonial possessions made by the European imperial powers in the nineteenth century, just as democracy

promotion consolidated US hegemony in the modern era. Likewise, those living outside the 'greater West' today often complain that human rights are a tool wielded by the powerful to secure various goals such as favourable terms of trade or even a change of regime.

Liberalism

Liberalism is historically the main challenger to realism in international relations. At the level of ideas, liberalism develops out of a Western tradition of thinking in which the individual has rights that public authorities must respect. While there are varieties of liberal thinking, the central idea is that individual persons have basic rights to free speech, fair treatment in terms of judicial process, and political equality enshrined in a political constitution. While Hobbes and Machiavelli are invoked by realists to justify the promotion of national self-interest, liberals look to Locke and Kant as their lodestars. Kant's pamphlet 'Perpetual Peace' (Kant, 1991) builds a theory of international liberalism in which all individuals have equal moral worth, and in which an abuse of rights in one part of the world is 'felt everywhere'.

It is easy to dismiss liberalism as being utopian. The history of statecraft from the mid-seventeenth century onwards is more readily understood in terms of conflict and aggression. But, as liberals point out, moral universalism has continued to insert itself into the practice of international politics. From the birth of the **Enlightenment** onwards, states have made significant advances in terms of meeting universal principles central to liberalism. Western states have, over time, enshrined the rights of citizens in legal constitutions, ended the trade in slaves and then the institution of slavery, agreed to protect the condition of workers, and advanced international **humanitarian law** to protect wounded or captured soldiers and to criminalise the targeting of civilians. Many of these advances that took place between the mid-nineteenth and the early twentieth centuries became codified in the internationalization of human rights in the UN system after 1945 (see Chapters 1 and 2).

As will become apparent in the following section, the implementation of human rights standards in the twentieth century has been chequered. Liberals recognize that the division of global humanity into separate sovereign states presents particular problems when it comes to embedding universal moral principles. Two

kinds of responses are triggered by this dilemma. The first is the attempt to expand the liberal 'zone' such that there are fewer authoritarian states in the world; the second is to strengthen international institutions in the expectation that they can alter the incentives of member states in ways that enhance respect for human rights and human dignity.

Constructivism

Constructivism differs from realism and liberalism in that it is not a theory of human rights *per se.* What it offers students of IR is a way of thinking about the relationship between norms and interests. Unlike realists and liberals, constructivists argue that there is no necessary tension between the interests of sovereign states and the moral principles associated with the promotion and protection of human rights. The important theoretical point here concerns the constitutive nature of international political reality, specifically how states create—and are created by—shared norms and values.

The development of human rights needs to be understood according to this dynamic. As is often the case in social life, the international realm is made up of many contending sets of expectations and rules as to how actors ought to behave. While the historically dominant realist logic suggests one form of international conduct, constructivists argue that this inter-state order has been transformed by the emergence of universal values. The protection of human rights therefore becomes 'integral to the moral purpose of the modern state, to the domi-

nant rationale that licences the organization of power and authority into territorially defined sovereign units' (Reus-Smit, 2001, p. 520). Constructivists argue that if states reject universal values outright, they will have to pay a price: this could take the form of condemnation, exclusion, or possibly coercive measures aimed at forcing the new standard of legitimate statehood.

KEY POINTS

While they do not deny the existence of human rights, proponents of the various theories of IR examined here (realism, liberalism, and constructivism) view the role and promotion of human rights in world politics in very different ways.

The clash between the division of the world into separate sovereign states and claims for universal moral principles is felt most keenly by realist scholars, for whom national interest will always trump calls for inserting human rights into foreign policy formulation.

Liberals view human rights as having an increasingly important role in IR and point to the spread of liberal democracy as well as the establishment of a global human rights regime as evidence of this; constructivists, for their part, note that respect for human rights can have an important effect on the forming of state identities, noting that some states seek to practice a foreign policy that is both pragmatic and principled.

Constructivists argue that, in practice, human rights should not be regarded in opposition to state sovereignty but rather as an emergent standard for legitimate statehood.

Key Controversies

Human Rights in the Cold War—Organized Hypocrisy?

Liberal histories of human rights regard the 1948 **Universal Declaration of Human Rights** (UDHR) as a founding document that had been brought into being because of the horrendous destructive capacity of modern states. Eleanor Roosevelt, one of its main advocates, said that it had 'set up a common standard of achievement for all people and all nations' (cited in

Risse and Sikkink, 1999, p. 1). Defenders of human rights believe the UDHR signalled a normative shift away from the absolute sovereignty presumed by states and toward the idea that all individuals should have rights by virtue of their common humanity.

The persistence of two sets of rival **normative** claims—one based on the rights of sovereign states and the other the rights of individuals as members of a natural universal community—is one that IR scholars trace back many centuries. Theologians in the Columbian period debated

TABLE 4.1 Dimensions of human rights (HR) according to main IR theories.

		Sectors		
		Moral basis of human rights	**Status of institutions**	**Human rights in foreign policy**
IR theories	**Realism**	The logic of self-help in an anarchic system means HR are a luxury that states cannot afford. Claims to universal values mask the play of national interest.	Institutions are powerless—HR are left to the will of states. State leaders pay lip service to human rights standards.	HR can be a useful tool if they enhance the relative power of your state; the moment they work against the state's vital security interests, they must be abandoned. Using force to uphold HR values is almost always reckless and self-interested.
	Liberalism	HR are an extension of natural and inalienable rights. States have a duty to protect rights—if they fail to do this their sovereign status is in question.	HR regimes (the informal rules) and institutions (e.g. the HR commission) are vital for monitoring compliance. If institutions are weak, states will 'cheat'. Legalization within the EU has meant that obligations are legally binding.	The promotion of HR is inextricably linked to the promotion of democracy and good governance. Unless HR values are embedded in state-based institutions, they will not be durable.
	Constructivism	The basis of HR is the overlapping consensus that exists among actors and institutions in international and world society. It is not a 'natural' virtue but an inter-subjectively generated commitment.	Institutions matter, but the 'norm cascade' enables the researcher to track the process of socialization. Trans-national social movements assist with the compliance problem by cajoling and shaming.	The realist claim about the primacy of the national interest is problematized by constructivism. Interests, they argue, are a product of the identity and values of a state or region. Therefore, we should expect rights-protecting states at home to promote HR abroad.

the rights of the aborigines in the Americas (see Chapter 15); peacemakers at Westphalia in 1648 included minority rights in the final treaties; and the period of British hegemony in the nineteenth century witnessed the emergence of an anti-slavery norm—albeit coexisting with the practice of colonialism, which was anything but human rights-friendly.

The contemporary struggle between the universal and particular is brought into sharp relief by the doctrine of human rights. After the euphoria of the UN General Assembly's proclamation of the UDHR, human rights advocates had to wait a further three decades before such principles began significantly to constrain the behaviour of states. In the intervening period, the call for states to live up to respecting universal rights was muted by two factors: first, the priority accorded to national security by the leading protagonists (and their allies) during the **Cold War**; and second, the fact that states did not allow multilateral monitoring of their human rights practices. This last point was nicely illustrated by the first session of the UN **Commission on Human Rights** (in early 1947), which noted that it had 'no power to take any action in regard to any complaints concerning human rights' (Donnelly, 2003, p. 73). In other words, from the outset, human rights were overshadowed by systemic factors to do with great power rivalry and the preference by members of international society to view human rights as standards and not as enforceable commitments. With the exception of the limited group of states who were signatories to the European Convention of Human Rights, the general picture from 1945 to 1973 was one in which there was a yawning gap between standards and delivery.

Several factors converged in the mid-1970s that together signalled a step-change in the power of the human rights regime. These can be grouped into the following themes (examined in turn below): the growing legalization of human rights norms; the emergence of human rights INGOs (international **non-governmental organizations**); and the increased priority accorded to human rights in the foreign policies of key Western states.

Development of legal norms

In 1976 the two international human rights covenants came into force. With no little historical irony, the Czechoslovak parliament ratified the two covenants in the knowledge that this would enable the International Covenant on Civil and Political Rights (ICCPR) to come into effect. Over and above the internationalization of what Jack Donnelly calls 'an international bill of rights', other institutional changes had an important impact. The UN Commission on Human Rights became more active, in part helped by its expanded membership and the inclusion of states committed to making a difference. While the work of the Commission is largely that of information gathering and sharing, its role raises the status of human rights in the UN system. The appointment of a UN High Commissioner for Human Rights in 1993 took the profile to an even higher level.

Emergence of human rights INGOs

The 1970s also saw the emergence of INGOs committed to deepening state compliance with human rights law. Dismissed by Soviet diplomats in 1969 as 'weeds in the field' (Foot, 2000, p. 38), INGO activity was beginning to have a significant impact on state–society relations in all corners of the globe. Amnesty International (AI) is a good example. Its mission is to campaign for internationally recognized human rights (http://www.amnesty.org). Originally set up around a clutch of activists in 1961, it had over 150,000 members in more than 100 countries by 1977; today, the membership is close to 2 million with subscribers in over 150 states.

INGOs like Amnesty perform two vital functions. They act as information networks with a capacity to communicate evidence of human rights violations to their membership and the global media. If INGOs are believed to be authoritative and independent, as Amnesty is, then this information is taken seriously both by UN bodies entrusted with monitoring human rights and by other actors in global civil society. In 1977, Amnesty won the Nobel Peace Prize, and seven years later it was highly influential in the drafting of the 1984 Convention Against Torture. The second key function that human rights INGOs play in world politics is one of monitoring governments' records in complying with the treaties they have signed. Significant in this respect is the annual Amnesty International Report that documents non-compliance in countries throughout the world—a practice that other leading INGOs, such as Human Rights Watch, have emulated. When systematic non-compliance has been exposed, human rights INGOs are skilful at using print and digital media to embarrass those public bodies whose word is not as good as their bond, a technique known as naming and shaming.

Insertion of human rights into diplomacy

Of the three dynamics for change that became evident in the 1970s, probably the most significant was the intrusion of human rights into the diplomacy of Western states. In the USA, Congress was increasingly minded to pass legislation linking aid and trade to human rights. And when Jimmy Carter became president, the cause of human rights found a passionate advocate—in sharp contrast to the Nixon–Kissinger era, when they were thought to complicate the achievement of more important goals in the economic and security domains. In Western Europe, Norway and the Netherlands were becoming more activist in promoting human rights in their own foreign policies. Within the European Community (EC), and after 1993 the European Union (EU), respect for human rights had always been a condition for membership. Individuals in many European states could also bring human rights complaints against their governments through the European Court of Human Rights (ECHR), indicating a much higher level of institutionalization than is the case in the UN system (which in some instances allows for individual complaint but in which the views of the treaty bodies are not binding).

The signing of the Helsinki Accords in 1975 illustrates each type of agency at work. This agreement was the culmination of three years of negotiation among thirty-five states involved in the *Conference on Security and Cooperation in Europe* (CSCE). The Eastern bloc countries were desperate to normalize relations with the rest of Europe and have the Cold War division of Europe recognized in an international treaty. The West Europeans were pushing hard for shared commitments to fundamental human rights: while this was resisted by communist states, they eventually yielded in order to realize their gains in other issue-areas. The Accords set out ten 'guiding principles for relations among European states', including 'respect for human rights and fundamental freedom, including the freedom of thought, conscience, religion or belief' (Conference on

Security and Cooperation in Europe, Final Act, 1975). While the communist elites chose to emphasize other articles in the final declaration that underscored the principle of non-intervention in their internal affairs, activists inside their societies began a period of intense mobilization that did untold damage to the stability of communist rule. 'Less than a year after the Helsinki Final Act,' Daniel Thomas argues (see Thomas, 1999, p. 214), 'the combination of domestic mobilization and transnational networking had rendered the international normative environment inhospitable to the political status quo in Eastern Europe—precisely the opposite of what the Warsaw Pact elites intended when they called for a European security conference.' The novel feature of repeat meetings and robust and critical 'follow up' among Helsinki states, a process not found in the UN human rights system at the time, was also instrumental in the reinforcement of these human rights norms (Hanson, 1994).

The CSCE process reminds us that the Cold War, while it was preoccupied with security concerns, nuclear parity, a divided Europe, and other dominant factors, was, at its heart, also a debate about human

rights. From the Western viewpoint, the ideological divisions between East and West were not restricted to territorial contests and competing economic systems, but were also inherently about the relationship between governments and the rights they afforded their citizens. And even if Western outrage about the plight of dissidents and others in the Soviet bloc was not paramount in diplomatic discussions, neither had it been totally subsumed or forgotten in the need to avoid nuclear confrontation. Writing in 1986, Vincent reminded us that 'the history of East–West relations' was 'in an important sense the history of a dispute about human rights' (Vincent, 1986, p. 61).

After the cold war: springtime for human rights?

By the mid-to-late 1990s, the international human rights norm had diffused widely. One key driver here was the rapid increase in the number of liberal democratic states. With the fall of communism, and countries transitioning to democracy in Latin America and Asia, it is now the case that a far larger proportion of the world's population live in what could broadly be described as liberal democratic states. (The Polity IV Project records approximately 20 states as democracies in 1945; by 2006, this number had risen to well over 90.) Such regime types are naturally hospitable to protecting individual rights; on those occasions when citizens' rights are being curtailed by excessive presidential/executive authority, liberal states contain important countervailing legal mechanisms to protect individuals.

A second key driver was the growing acquiescence of non-liberal states into the human rights regime. The 1993 Vienna World Conference on Human Rights was an important signifier of the unchallenged status of the standard, as was the signing of the ICCPR by China in 1998. These tipping points illustrate the progressive socialization of states into a framework where their internal behaviour is subject to the scrutiny of other states as well as international public opinion. Constructivist thinkers in IR talk about this process of socialization in terms of a 'norm cascade' (see Box 4.2).

Simply glancing at the website of a leading prodemocracy INGO such as Freedom House reveals how successful democratic socialization has been since 1990. Empirical data, however, is not in itself an explanation for how and why a norm of 'democratic entitlement' (Franck, 2000) emerged. Was it a triumph

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Box 4.1 Gorbachev's Adherence to the Helsinki Process

Mikhail Gorbachev, President of the Soviet Union from 1985 until its demise in 1991, cited the Helsinki Final Act as a major influence on his decision to promote human rights in the Soviet Union in the late 1980s, saying that 'what we are seeing is the unfolding of the Helsinki process in its concrete, contemporary forms' (Gorbachev, 1989). Unlike his predecessors, Gorbachev decided that the human rights provisions contained in the Helsinki Final Act and subsequent CSCE documents would be taken seriously by his government. Gorbachev had relied on Western powers to conclude urgently needed arms control agreements and this placed pressure on him to observe human rights in the Soviet Union; demands were also mounting from the many human rights NGOs operating inside the Soviet bloc and outside it. But Gorbachev believed in the importance of human rights. He also cited the Helsinki Final Act's agreement that borders in Europe could be changed, but by peaceful means only, in 1989. The end result of Moscow's adherence to all these factors was the peaceful revolutions in Eastern Europe and the Soviet Union that ultimately brought about the end of the Cold War.

Box 4.2 **The 'Norm Cascade'**

Constructivists are interested in how beliefs about human rights are translated into global norms. This issue leads directly to the relationship between domestic political practices and international standards of right conduct. Drawing on sociological theory, constructivists have developed a model of norm socialization that is referred to as a 'norm cascade'. The cascade has five phases. *Phase one* is the repression of opposition groups and the effective blocking of the influence of trans-national networks. *Phase two* is where advocacy groups begin to scrutinize the activity of governments that violate the basic rights of their citizens. The reaction of the target state is one of denial, i.e. a refusal to accept that the international human rights standards invoked by INGOs are legitimate. *Phase three* is where forces of resistance are mobilized

in the target state, aided and supported by the global human rights movement; the government is inclined to make a tactical concession hoping that the problem will go away. In reality, such governments are prone to self-entrapment; in other words, they begin to take seriously opposition groups and in doing so provide them with a degree of legitimation. *Phase four* is where governments make an effort to improve their human rights, recording and regarding external standards as something they ought to aspire to; however, non-compliance continues despite recognition of the validity of the international bill of rights. Finally, *phase five* occurs when the institutions of the state see themselves as being guardians of human rights; conformity to the norm becomes automatic, making its operation difficult to discern.

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of political ideology (Fukuyama, 1992), a triumph of marketization, or a triumph of United States' hegemony (Ikenberry, 2001)? In complex ways, all of these accounts overlap; what matters at this juncture is to point out that the landscape of international relations looked much more hospitable to human rights in the 1990s than it had ever done before. The decision by the North Atlantic Treaty Organization (NATO) in March 1999 to use force against the Federal Republic of Yugoslavia in an attempt to end human rights abuses against Kosovo Albanians was the apogee—it seemed that power and principle were at last converging.

After 9/11: the challenge to the torture convention

The previous narrative about an ever-expanding zone of peace in which the rights of ordinary citizens remain sacrosanct appears, from the vantage point of today, to be something of an anachronism. Whereas the challenge to human rights during the Cold War originated from societies built on a collectivist ideology, the challenge to the human rights regime post-9/11 has been led by leading liberal states such as the United States and the United Kingdom.

The most graphic representation of the retreat of human rights is the haunting images of naked prisoners, first aired on CBS news in April 2004. The official reaction of the Bush Administration to the Abu Ghraib scandal was that these incidents were committed by 'a few bad apples'. Such complacency ought to
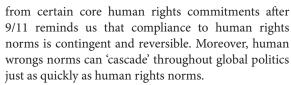
be countered by the argument that the USA has, since 9/11, systematically sought to reinterpret key articles of the International Bill of Rights, specifically in relation to the treatment of prisoners. The Secretary of Defence called for stronger interrogation techniques to be used against so-called high-value detainees. Far from refraining from cruel and degrading treatment, the Administration raised the bar for what counts as torture such that it was equated with the infliction of lasting pain commensurate with 'serious physical injury such as death or organ failure' (Bybee, 2005).

The context of the threat posed by al-Qaeda-inspired suicide bombers prompted voices inside the liberal establishment to question whether certain human rights commitments were in tension with national security. In relation to the Torture Convention, both Michael Ignatieff (2004) and Alan Dershowitz (2004) have argued that the threat of apocalyptic terrorism is such that certain exceptions to the convention ought to be permissible (see Chapter 17). The former argues that human rights infringements ought to be seen as a lesser evil, while the latter believes **torture warrants** should be considered as a way of regulating the practice. Needless to say, the response from the broadly international legal establishment has been one of horror (Greenberg and Datel, 2005).

While liberal intellectuals slug it out, governments around the world are quickly curtailing the rights of terror suspects—often so widely defined as to include political opposition movements. The general retreat

from certain core human rights commitments after 9/11 reminds us that compliance to human rights norms is contingent and reversible. Moreover, human wrongs norms can 'cascade' throughout global politics just as quickly as human rights norms.

The preceding discussion has endorsed R. J. Vincent's observation that 'there is an inescapable tension between human rights and foreign policy' (Vincent, 1986, p. 129). What is also evident is that this tension has not gone away, despite the best hopes of liberal internationalists after the fall of communism. All three background theories of human rights have important contributions to make to understanding how this controversy is played out. **Realists** remind us of the grip of state sovereignty, with its claim to absolute jurisdiction on the 'inside' and the necessity of promoting the national interest on the 'outside'. **Liberals** remind us that the moral basis of community is not artificial sovereign states but relations between individuals, and that respecting fundamental rights is a means to furthering the wider goal of promoting what Kant described as 'a universal kingdom of ends'. **Constructivists** highlight the mutuality of these rival normative arguments: the debate about human rights has changed what is understood by the term 'state sovereignty'.

> **KEY POINTS**
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> Although developed as part of the 1945 UN system, the international human rights regime was marginalized by the Cold War. Yet human rights concerns had always been part of this confrontation, and came to be incorporated into East–West diplomacy from the late 1970s, thanks largely to the mobilization of trans-national human rights NGOs.
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> The end of the Cold War and the subsequent spread of 'zones of peace and liberal democracy' created new hopes that human rights would gain ever greater importance in international relations. Paradoxically, however, this same period also saw some of the worst abuses of human rights, in states such as Somalia, Rwanda, Bosnia, and East Timor. These represented a serious challenge to states and international organizations that were still coming to grips with how to respond to such tragedies effectively.
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> The onset of the 'war on terror' has refocused attention on the human rights practices of the USA, Britain, and other states that had previously been seen as human rights champions. It is not yet clear what the full impact of this 'roll-back' of human rights principles might mean for international relations.
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> Primary elements of the theories of IR remain compelling: for realists, state sovereignty has not been subsumed by alleged universal principles, while liberals will note the persistence of moral issues in international relations, notwithstanding any weakening on the part of some individual states.

Findings: Human Rights and State Practice

In this section we illustrate the impact of human rights on state sovereignty in three key respects: first, the process by which human rights standards are internalised; and second, the development of an external human rights policy in which 'a state has explicit mechanisms for integrating human rights concerns into foreign policy' (Sikkink, 1993, 143). This leads into a discussion about the **responsibility to protect** doctrine, which emerged as a response to the claim on the part of some states that there is a right of **humanitarian intervention** in cases of clear and widespread violations of human rights, and the new emphasis on the need to prevent atrocities—a subtle shift away from the largely reactive approach to human rights protection evident until recently.

Internalization

There is a tendency in the IR literature to focus on the narrow question of the promotion of human rights in foreign policy—often narrowing still further to the question of the forcible promotion of human rights. The danger here is that the spotlight falls on those states in the world that have the military capacity to respond to humanitarian emergencies. Instead, the spotlight should be directed more widely on all of the 150-plus signatories to the ICCPR. Remember that, for the most part, the protection of human rights begins at 'home'. It is noteworthy that former UN Secretary General Kofi Annan recognized the primacy of **national human**

rights institutions. These institutions will, 'in the long run', ensure that 'human rights are protected', he argued.

The 'norm cascade' featured in Box 4.2 provides an analytical device for examining how far a particular state or region has progressed in terms of developing a comprehensive human rights policy. In broader terms, the first requirement for states to be able to claim that they take human rights seriously is 'to surrender a degree of sovereignty' and permit some degree of international scrutiny (Sikkink, 1993, p. 142). Such an injunction requires a detailed analysis of treaty ratification, or the mechanism by which human rights standards are embedded in domestic law.

The question of ratification leads inexorably to the discussion of variations in domestic legal orders. Paradoxically, authoritarian states find the process of ratification easier given that the Head of State retains supreme power to enact domestic laws. Democracies find the process of ratification to be longer and more complex. The adoption of a treaty in the United States, for example, requires a two-thirds vote in the Senate, rendering the process vulnerable to partisan politics. In the case of regional human rights regimes, the pattern is similar: standards are set regionally but it is left largely to domestic institutions to monitor and enforce. The one partial exception is the European Convention on Human Rights, which empowers a court to preside over petitions from states but also from individuals.

The post-9/11 period has refocused attention on the role of national courts in challenging the claim by the executive branch of government to exercise a rule of 'exception' in relation to the rights of suspected terrorists. The defeats of the executive branch of government by the United States Supreme Court and the UK High Court are indicative. In July 2004, the Supreme Court ruled that detainees at Camp Delta in Guantanamo Bay, Cuba, can take their allegation of wrongful imprisonment to an American court. The rationale offered by the Court was the ancient principle of habeas corpus, which compels the holder of the prisoner to bring him or her to trial. The Supreme Court dealt the Bush Administration another blow on 29 June 2006 when it ruled—by a 5-3 majority—that the executive had over-reached its authority in seeking to try suspects by military tribunal. In the UK, the case of unlawful detention at Camp Delta was also heard. Lawyers working for detainee Ferroz Abbassi claimed that his imprisonment was in breach of the ICCPR and that the British government

had a duty to protect those rights. Set against the government's position that it can have no meaningful view about matters of United States jurisdiction, Nicholas Blake QC dismantled this argument, referring to it as 'an old view which takes no account of modern developments in international law and human rights' (Sands, 2006, p. 165–166). These illustrations suggest that it is not just international non-governmental organizations such as Amnesty International that monitor and shame state leaders. Box 4.3 discusses the importance of individuals and institutions outside government being prepared to make a 'noise' about human rights.

Externalization—Promoting Human Rights in Foreign Policy

The other dimension to having a comprehensive human rights policy is the incorporation of internationalist values in a country's (or conceivably a region's) foreign policy. For it to be said that a state actor has an external human rights policy, two aspects need to be present. First, the pursuit of human rights values and policies must be given strategic importance—not simply a 'desk' in a foreign ministry that regards its main business as maximizing trade and security interests. Second, there must be explicit policy instruments, as well as mechanisms for advocacy and scrutiny inside government.

Box 4.3 Doing Something about Human Rights Abuses—The Need for 'Noise'

At the time of the Rwandan genocide in March/April 1994, Anthony Lake was a member of President Clinton's National Security Council. In retrospect, he argues that the Administration he served never seriously addressed the problem of how to effectively respond to the bloodletting that cost the lives of up to one million Rwanda citizens. From a policy perspective, the problem was that 'nobody was for it'. Lake argues that those outside of government who believed intervention would have succeeded should have created 'more noise' that would have helped people like him inside government. 'Noise means television interviews. Noise means newspaper articles. Noise can even mean peaceful demonstrations, etc.' (From PBS documentary, 'Ghosts of Rwanda'. http://www.pbs.org/wgbh/pages/frontline/shows/ghosts/interviews/lake.html. Cited in Michael Barnett (2008, pp. 198–199).)

The remainder of the chapter focuses on an aspect of human rights that brings together these internal and external dimensions. Especially after 1989, key Western states recognized that the liberal values that defeated communism were *universal* values. The so-called 'King's peace', by which states turned a blind eye to what was going on inside other countries' borders, was no longer tolerable. Having a comprehensive human rights policy meant insisting on the legitimate appraisal of the internal conduct of all states (Vincent, 1986, p. 152). For states to be in conformity with the new standard of civilization, they had to not only protect human rights inside their own borders, but also actively support basic rights externally (Reus-Smit, 2001).

This duty to 'do something' was being championed by norm entrepreneurs inside several key states, driven in part by the horrific abuses witnessed in Somalia and Rwanda, in the Balkan wars, and in East Timor. By the end of the century, however, inconsistency in its application—or worse, inaction in the face of genocide in the case of Rwanda—triggered an important debate about the circumstances in which it is right to engage in armed intervention in the affairs of other sovereign states without their consent.

The Canadian government was particularly supportive of a new initiative to tackle the conceptual, legal, moral, and operational challenges of reconciling intervention with state sovereignty. This initiative, the International Commission on Intervention and State Sovereignty (ICISS) grappled with the need to keep alive the case for humanitarian intervention in a world that was not always receptive to the idea, and which was rapidly coming to be dominated by the major Western powers' emphasis on the war on terrorism. This state-sponsored Commission's task was to find a way to bridge the international community's responsibility to act when faced with clear violations of humanitarian norms, while still respecting the perennial issue of the sovereign rights of states. As one observer claimed, this was the 'problem from hell'.[2] A new orientation evolved from these discussions, utilizing the term the '**responsibility to protect**' (or R2P as it has come to be known). The extensive deliberations of the ICISS firmly placed the responsibility to uphold human rights and protect citizens primarily on the state itself. All countries had a responsibility to protect their citizens from **genocide**, **war crimes**, **ethnic cleansing**, and **crimes against humanity**. But where a state manifestly failed to do this, the international community

would now share a collective responsibility to respond. Thus, only in the event that a state would not or could not protect its people would outside intervention be considered; a respect for sovereignty was therefore coupled with a clearly articulated *responsibility* of the international community to respond appropriately in the event that a state failed to live up to its duties.

This formulation did much to strengthen the view that the responsibility to protect human rights lies first and foremost with individual governments. In doing so, it continues the elaboration of the notion of 'sovereignty as responsibility' articulated by Deng *et al.* (1996), which no longer sees sovereignty as a protection against intervention but rather as a notion and practice that carries with it undeniable obligations to citizens to whom a sovereign government is accountable. The implication here is far-reaching: sovereignty as an entitlement is conditional upon the promotion and protection of the rights of citizens. Further, accountability is due, not only to a state's domestic population, but to an international community also (Thakur, 2002; Etzioni, 2006). Similar notions of sovereignty were elaborated in the United Nations (2004) publication 'A more secure world', the commissioned report of the High Level Panel on Threats, Challenges, and Change, and these various reports have now come to influence academic thinking on human rights to a substantial degree. (There is also a resonance here with the conceptual and operational elements of the **International Criminal Court**, which also places responsibility primarily on the relevant state to prosecute its citizens who have violated international norms. Again, where a state fails or is unable to do this, the responsibility to do so falls on external bodies.)

The Responsibility to Protect, the Responsibility to Prevent

The International Commission on Intervention and State Sovereignty (ICISS, 2001) report 'The Responsibility to Protect' has come to be seen as a pivotal document on the place of human rights in IR. It iterated a number of basic principles: first among these was the view (outlined above) that state sovereignty implies responsibility and that primary responsibility for the protection of its people clearly lies with the state itself; where clear

evidence shows a state unable or unwilling to act to protect its people from serious harm, the principle of sovereignty yields to the international responsibility to protect. This made it clear that the 'debate about intervention . . . should focus not on the "right to intervene" but on the "responsibility to protect" ' and that 'the change in terminology' signalled also a 'change in perspective'. The report notes that its foundations lie clearly within, first, the obligations 'inherent in the concept of sovereignty' itself, and then in the specific legal obligations enshrined in human rights and humanitarian law, in the deliberations of the United Nations Security Council, and in the developing practice of states.

The report identifies three main elements of the R2P formulation: the responsibility to *prevent* atrocities and other abuses of human rights, the responsibility to *react* in the event that these abuses occur, and finally, the responsibility to *rebuild* the structures and institutions of a community after an intervention so as to prevent a recurrence of such violations. Of these three, prevention has been accorded the highest priority, distancing the report from any alleged association with a 'rush to intervene' (see Chapter 19). Prevention is to include measures for building state capacity, assistance supporting the operation of the rule of law, and mechanisms for remedying grievances. As Evans (2008) stressed, 'nonintrusive and non-coercive measures are always to be preferred, at both the prevention and reaction stages, to more intrusive and coercive ones.' Additionally, and conscious of the problems that plagued (to varying degrees) the interventions of the 1990s, the report suggests a broad range of interventionary measures—political, diplomatic, economic, legal, and in the last resort, military. The ethical and strategic contexts of any intervention also require attention, and here the report stipulates guidelines that address the just cause threshold, the precautionary principles that must be applied, the question of right authority, and operational principles.

That the challenges of responding to human rights violations remained paramount in international relations was demonstrated when, in 2005, the UN World Summit and, importantly, the UN Security Council adopted the 'responsibility to protect' as a new doctrine, in theory, at least, removing the difficulties associated with sovereignty and the external application of human rights. The Co-Chair of the ICISS noted that (Evans, 2008)

The international community has too often in the past stood paralysed between the competing imperatives of intervention to protect human rights catastrophically at risk, and that of non-intervention in the internal affairs of sovereign states. Throughout the 1990s there was fundamental disagreement between those—mainly in the global North—arguing for a 'right to humanitarian intervention', and those, mainly in the global South, who feared that any recognition of such a 'right' would mean a revival of old imperialist habits and put often newly-won and still-fragile independence at risk. It was necessary to cut through that deadlock, and 'R2P' did that, by using language which clearly changed the emphasis from 'right' to 'responsibility', by approaching the issue from the perspective of the victims rather than any potential intervener.

The position of human rights in IR has been receiving attention in other forums also, reinforcing an analysis that the externalization of human rights norms is a growing trend. The increasing focus on *conflict prevention* as a key tool in protecting human rights anticipated the emphasis on preventing atrocities, and its terminology resonates with R2P. Early warning mechanisms and conflict prevention are not only relatively new areas of study in the disciplines of IR and peace and conflict resolution, but have also been adopted as essential elements in the practice of human rights protection and humanitarian projects. Examples include the ongoing work of the Organization for Security and Cooperation in Europe (OSCE), the EU, and the Organization of African Unity (now the African Union), the latter of which established in 1993 a Mechanism for Conflict Prevention, Management, and Settlement. In turn, the Economic Community of West Africa States (ECOWAS) established in 2000 a Mechanism for Conflict Prevention, Management, Resolution, Peace, and Security, clearly signalling a shift away from reactive responses toward global and regional proactive initiatives to protect populations.

The area of development studies in IR is also replete with the intrusion of human rights into its agenda (see Chapter 10). While a rights-based approach might have been implicit in early formulations of development practice, the argument now is that it should be explicitly and firmly embedded in discourses of poverty reduction and on the operations of institutions such as the **World Bank** and the **International Monetary Fund** (Nelson and Dorsey, 2003; Gready and Ensor, 2005; Uvin 2007).

Do these new areas of discussion move us significantly forward in being able to uphold human rights in the practice of international politics? Has a new formulation on the responsibility to protect, an emphasis on conflict prevention, and the insertion of rights-based approaches into development theory and practice moved us any further? There are at least two criticisms that can be placed at the door of these innovations in thinking about human rights in international relations. The first is that they might foster expectations of protection that are unrealizable in reality. The second and related factor is that, while these formulations might have provided useful conceptual tools for addressing the worst kinds of human rights abuse, and even go so far as to specify guidelines for intervention, they have not been put to the test in practical terms. The widespread violation of fundamental human rights in Darfur continues, and so does poverty at an unacceptable level.

Human rights and state practice coexist at a complicated and uneasy level, but—if recent developments are to be believed—also a workable level. International human rights regimes are slowly evolving to make symbolic, if not yet actually substantive, progress, as demonstrated by the Prosecutor of the International Criminal Court's July 2008 move to charge Sudan President Omar Bashir with genocide, crimes against humanity, and war crimes. These are the first charges of genocide and the first charge against a head of state to be brought before the Court. And while the enormity of the Darfur tragedy reminds us of the inability of international institutions to put a quick end to this conflict, the 'Human Security Report' (2005) documents that there has nevertheless been a significant decrease in the number and intensity of such conflicts worldwide. Many of these conflicts, as Darfur clearly shows, have in the past typically allowed violations of human rights and mass atrocities. All this would indicate that an emphasis on peacekeeping and conflict prevention might be a key element in avoiding human rights abuses in the future.

If this section has shown us anything, it has shown that, even if there has been a reverse cascade of human rights norms in some instances—for example, regarding torture, rendition, and the curtailing of civil liberties in some states—the slow weaving of human rights threads into the fabric of international politics continues. But

neither is this cause for complacency; just as in the Cold War we did not see an absence of human rights and championing of human rights, so too in the arguably more liberal and progressive period of global history following the Cold War do we see that rights can easily be interpreted and even jettisoned.

These contrasting developments remind us of the complex nature of the relationship between sovereignty, power, and norms. On the one hand, evidence of a 'reverse norm cascade' when we see practices of torture might lead us to conclude that human rights have not progressed greatly since the end of the Cold War (just as it is interesting to note that, even during the Cold War, human rights as an issue was well and truly alive). On the other hand, recent years have seen some important conceptual reformulations (such as R2P) and the growing allocation of resources for peacekeeping and conflict prevention that have brought about decreases in conflict, especially in the region of Africa. In other words, at a day-to-day level, much is going on in terms of promoting human rights in international relations, even if what is most visible to us is the focus on Camp Delta.

> **KEY POINTS**
>
> Two elements of human rights protection in the practice of states need to be present in any claims that norm cascades are successfully occurring: first is the internalization of human rights norms where the rights of citizens are enshrined in domestic legal and social practices; the second, an externalization of these norms, can be seen as a commitment to international human rights regimes and an acceptance of a responsibility to protect human rights where abuses are evident in other states.
>
> The formulation of the 'responsibility to protect' assists in this second element of externalization. At the same time that it endows sovereignty with primacy—but also with responsibility—it focuses attention on the need for states to act *outside* their borders and sometimes against other states, in order, as Nicholas Wheeler has put it, to 'save strangers'.
>
> State practice has also recognized the need to engage in early warning and conflict prevention, and this is a growing area of study in IR.

Conclusion

The nexus between human rights and mainstream IR is both productive and at the same time troublesome. It is productive in the sense that the normative choice about where to begin—with a world of individuals or a world of states—ineluctably leads the researcher to consider the impact of the actors on the other side of the ledger. It only takes a moment's reflection about the daily life of human rights fieldworkers to illustrate how embedded their role is in the inter-state order: their work is conditional on the consent of the host government, their employer will require recognition by its 'home' government and in some cases direct funding from it, and their likelihood of success depends on whether the regional and international conditions are conducive to some kind of progress on furthering human rights goals.

This productive tension can also be troublesome at times. It requires advocates to be aware of the complexities of the world political system and the plain but uncomfortable truth that there are often competing justice claims on the part of different actors. No simple appeal to universal rights on the part of one constituency is likely to be the basis of an adequate resolution.

The example of Indigenous peoples' rights is instructive here (see Chapter 15). Often with just cause, Indigenous groups claim a special category of rights related to their common experience of violent dispossession and social deprivation. But who has a responsibility to redress these wrongs? Is it ordinary settlers who have built their lives on the land that once belonged to the first nation peoples? Or is it the regional or federal government who has a duty of care? Even more distantly, it could be argued that the imperial politics of the old European empires was the underlying cause of the condition in which Indigenous peoples find themselves. The chapter has demonstrated that these questions can only be answered in the context of theoretical understandings of what human rights are and how they relate to other moral and political goals. As the debate between security and liberty after 9/11 illustrates, the choice is seldom a straightforward one in which values can be pitted against interests. Rather, as Weber put it over a century ago, the choice is often between irreconcilable moral values.

QUESTIONS

INDIVIDUAL STUDY QUESTIONS

1. Why has the study of international relations not focused on human rights until relatively recently?

2. In what way might realists, who argue that human rights have no place in foreign policy, share views with those who claim that universal human rights are 'a Western imposition'?

3. What are the elements of a liberal approach to human rights in IR?

4. How might we best explain the emergence of a universal human rights regime?

5. What kinds of mechanisms and processes might enable human rights norms to 'cascade'?

6. What role did human rights activists play in ending the Cold War?

GROUP DISCUSSION QUESTIONS

1. Has the universal human rights regime been irredeemably damaged by the practices of certain Western states in the 'war against terror'?

2. Can the 'responsibility to protect' mean anything more than words?

3. Can states like the USA, Britain, and Australia (the main actors in the 2003 invasion of Iraq) continue to raise human rights concerns in other states?

4. Are human rights issues 'here to stay' in international relations?

FURTHER READING

Donnelly, J. (2003). *Universal Human Rights in Theory and Practice* (2nd edn). Ithaca, NY: Cornell University Press.

A very useful introduction to the theory and practice of human rights.

Dunne, T. and Wheeler, N. J. (eds) (1999). *Human Rights in Global Politics*. Cambridge: Cambridge University Press.

One of the best collections of writings on human rights and international relations.

Forsythe, D. P. (ed.) (2000). *Human Rights and Comparative Foreign Policy*. Tokyo: United Nations University Press.

Examines the role of human rights in the practice of various foreign policy approaches.

Forsythe, D. P. (2006). *Human Rights and International Relations* (2nd edn). Cambridge: Cambridge University Press.

A comprehensive examination of the place of human rights in international politics.

Freeman, M. (2002). *Human Rights: A Multidisciplinary Approach*. Cambridge: Polity Press.

A useful account of the various approaches to human rights.

Vincent, R. J. (1986). *Human Rights and International Relations*. Cambridge: Cambridge University Press.

A classic account of human rights, linking these to the theoretical approach of 'international society'.

Weiss, T. G. (2007). *Humanitarian Intervention: Ideas in Action*. Cambridge: Polity Press.

A useful account of the evolution of ideas about humanitarian intervention.

Welsh, J. M. (ed.) (2004). *Humanitarian Intervention and International Relations*. Oxford: Oxford University Press.

A useful collection with some distinguished contributors.

Wheeler, N. J. (2001). *Saving Strangers: Humanitarian Intervention in International Society*. Oxford: Oxford University Press.

An early analysis of the conceptual and practical challenges of interventions, especially those of the 1990s.

WEB LINKS

http://www.amnesty.org/ Homepage of Amnesty International. Amnesty International is best known for its practices of campaigning and its international solidarity with the victims of human rights abuses. It works by mobilizing public pressure and lobbying directly to influence governments, companies, and international organizations worldwide. Established in 1961, by 2007 it had 2.2 million members in 150 countries.

http://www.hrw.org/ Homepage of Human Rights Watch. Human Rights Watch arose directly out of the Helsinki process and the Helsinki Watch human rights monitoring groups. Formed in 1978, it is the largest human rights organization based in the United States.

http://www.un.org/rights/ United Nations Human Rights bodies. This website is a doorway to the many inter-related United Nations human rights treaties and subsidiary organizations.

http://www.crisisgroup.org/home/index.cfm Homepage of the International Crisis Group. The ICG was formed in 1995 as a response to the human rights tragedies of Somalia, Rwanda, and Bosnia to provide early warning of conflicts, field-based analysis, and policy prescriptions to governments and other NGOs involved in conflict analysis, prevention, and resolution. Unlike many other similar NGOs, its senior management team comprises former government members and prominent statesmen and stateswomen.

http://www.osce.org/odihr/ Homepage of the Office for Democratic Institutions and Human Rights (Organization for Security and Cooperation in Europe). ODIHR is the subsidiary body within the OSCE (the successor to the Helsinki process) that seeks to protect human rights and fundamental freedoms in the fifty-six member states of the OSCE, whose geographical scope extends from Vancouver to Vladivostock. Based in Warsaw, ODIHR is committed to the protection of minorities, upholding the rule of law and the transition to democracy in the region.

http://www.cidh.org/DefaultE.htm Homepage of the Inter-American Commission on Human Rights (IACHR). The IACHR is an autonomous organ of the Organization of American States (OAS). It was established in 1959, following the American Declaration on the Rights and Duties of Man adopted in Colombia in 1948. In 1969, the IACHR adopted the American Convention on Human Rights. Although of relatively limited effectiveness during the early decades of its existence, the IACHR is reputed to have strengthened its capacities substantially since the late 1990s, as demonstrated, for instance, in its robust prosecution of former Peruvian leader Alberto Fujimori in 2008.

http://www.achpr.org/ Homepage of the African Commission on Human and Peoples' Rights (ACHPR). The ACHPR was established under the authority of the African Charter of Human and Peoples' Rights, itself entering into force in 1986 under the aegis of the Organization of African Unity (now the African Union). Based in Banjul, Gambia, the ACHPR's members are elected by the OAU's Heads of State and Government.

NOTES

1. We note here that IR theories also include 'critical international theory' and that this approach commands increasing attention from IR scholars focused on normative change in the international system. We do not, however, examine critical theory here because of space restraints, but also because we believe there is considerable congruence—although the extent of this might be debated— between critical theory and constructivism. Scholars examining these issues include Linklater (1998, 2007) and Reus-Smit and Price (1998).

2. 'The responsibility to protect: Creating and implementing a new international norm.' Address by Gareth Evans, President, International Crisis Group, to Human Rights Law Resource Centre, Melbourne, 13 August 2007 and to Community Legal Centres and Lawyers for Human Rights, Sydney, 28 August 2007.

ONLINE RESOURCE CENTRE

Visit the Online Resource Centre that accompanies this book for updates and a range of other resources:

http://www.oxfordtextbooks.co.uk/orc/goodhart/