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Introduction to human rights and humanitarian diplomacy

Human rights and humanitarian diplomacy is the bargaining, negotiating, and advocating process involved with promoting and protecting international human rights and humanitarian principles. This diplomacy is also a secondary mechanism for discovering or defining new rights and principles. For centuries, diplomacy in general was the exclusive preserve of states. States use diplomacy as a foreign policy tool to achieve complicated and often competing goals. Today, human rights and humanitarian diplomacy is conducted on many levels by individuals who represent not only states but also intergovernmental organizations (IGOs) and nongovernmental organizations (NGOs). As such, diplomacy occurs on several tracks, often in interactive and simultaneous ways. **Track 1 diplomacy** refers to the official diplomacy practiced by state and IGO officials using traditional channels and tools. **Track 2 diplomacy** expands diplomatic activity to include the more unofficial interactions that involve civil society actors such as NGOs and prominent individuals. The conduct of human rights and humanitarian diplomacy occurs on multiple levels that can both complement each other, as well as work at cross-purposes.

This introductory chapter explores what international human rights are, why they are controversial, and why diplomacy is necessary for the actualization of human rights. It also explains the narrow distinctions between human rights and humanitarianism; discusses the different kinds of actors involved in multilevel human rights and humanitarian diplomacy; and outlines basic strategies and tools used to promote and protect human rights and humanitarian principles through diplomacy.

The subsequent chapters of the text are devoted to the process and conduct of human rights and humanitarian diplomacy. Chapter 2 examines the continued centrality of the state and how states, as the main duty-bearers, define and implement human rights and humanitarian principles domestically, as well as promote and protect them internationally. Chapter 3 looks inside "the black box" of the state to highlight the roles of secretaries, ministers, ambassadors, bureaucrats, and ombudsmen. It also looks at how human rights reports are created and help frame the diplomatic process. Chapter 4 shifts focus to IGOs. States create IGOs to help them achieve common goals or manage international problems. One of the central purposes of IGOs,

such as the United Nations (UN) and the European Union (EU), is to promote and protect human rights and this chapter provides an overview of their respective multilateral architecture. This chapter explains the operation of international human rights commissions and councils, and how international criminal courts have become an important tool of human rights and humanitarian diplomacy. Chapter 5 delves into the international civil service to show how IGO officials such as secretaries-general and high commissioners (and independent experts such as special rapporteurs) bargain and negotiate for human rights and humanitarian principles. It also explains the diplomatic functions of treaty monitoring bodies and courts in advancing respect for international human rights and humanitarian principles.

Chapter 6 details how NGOs engage in human rights and humanitarian diplomacy. Human Rights Watch and Amnesty International are just two of the many NGOs which monitor, report, advocate, and educate on human rights. Médecins Sans Frontières (MSF; Doctors Without Borders) and the International Committee of the Red Cross (ICRC) routinely and, oftentimes, quietly deliver humanitarian assistance. Chapter 7 explores how the human rights and humanitarian professionals employed by NGOs and IGOs conduct day-to-day diplomacy in the field. This includes providing immediate protection, conducting interviews, negotiating humanitarian access, monitoring detention facilities, and creating humanitarian space.

Selected chapters present *sidebars* written by individuals engaged in human rights and humanitarian diplomacy to illustrate its actual practice. These sidebars represent voices from across the spectrum of diplomacy: heads of state, foreign ministers, ambassadors, high commissioners, special rapporteurs, humanitarian affairs officers, and human rights professionals. The voices of civil society are also included to illustrate how human rights and humanitarian diplomacy is conducted at all levels. Chapter 8 concludes the text with a discussion of key challenges facing future human rights and humanitarian diplomatic efforts: globalization, failed states, and illiberal challenges to existing norms, laws, and values.

What are international human rights?

Philosophically, human rights are rights possessed by individuals by virtue of their humanity. Human rights are also a means for achieving minimal human dignity and social justice. From an international relations perspective, international human rights are generally recognized as the rights contained in what is called the **International Bill of Rights**. This includes the rights articulated in the **Universal Declaration of Human Rights (UDHR)** (1948) and the **International Covenant on Civil and Political Rights (ICCPR)** (1966) (and its two optional protocols), and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** (1966).[1] The UDHR is a nonbinding UN General Assembly resolution that represents the existing international consensus regarding the definition and importance of human rights in the post-World War II order. This is not to say that other human rights do not exist, only that those

rights have not achieved the wider international recognition necessary to be codified in international law.

In order to actualize the rights contained in the UDHR, states followed up by pursuing the more binding international law represented by the covenants and protocols. One way to understand human rights is to organize them around generations. **First generation human rights** refer to civil and political rights. This generation grew out of the Western, liberal tradition of political thought that holds that individuals need to be maximally free (including being free from oppression) in order to achieve human dignity. To effectively participate in public life, individuals need to have security of person and equal legal status. Through civil and political rights, individuals would be free to maximize their potential and chart their own course in life. Rights included in the ICCPR include to the right to: the freedom from torture or slavery; recognition and equality under the law; the freedom of thought and religion; the freedom of expression and opinion; and the freedom of assembly and association, among others.

Second generation human rights center on economic, social, and cultural rights. These rights include the right to: work and for a fair wage; an education; an adequate standard of living (including food and housing); and to health (interpreted as the right to health care). This generation of rights is largely a product of socialist values, which is one of the reasons why the right to "social security" was a centerpiece of the ICESCR.

Third generation human rights refer to collective human rights such as the rights of peoples to self-determination, or development, or the rights of specific groups (minorities, children, women, refugees, stateless persons, and indigenous peoples). Collective human rights are possessed by groups and are designed to improve the dignity and lives of group members. Certain groups face unique challenges in actualizing their human rights and thus have their own specialized treaties.

The ICCPR and the ICESCR represent the binding international law that codified many of the human rights contained in the UDHR. These two treaties now are joined by other core international human rights treaties:[2]

- International Convention on the Elimination of All Forms of Racial Discrimination (1965);
- Convention on the Elimination of All Forms of Discrimination against Women (1979);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- Convention on the Rights of the Child (1989);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990);
- International Convention for the Protection of All Persons from Enforced Disappearances (1996);
- Convention on the Rights of Persons with Disabilities (2006).

In addition to these core instruments, numerous other domestic, regional, and international laws have been inspired by the UDHR. Most call for human dignity within their preambles, suggesting this overarching theme within the international human rights discourse.

Why are human rights controversial?

Legally speaking, states make international law but individuals are the claimants (or the possessors) of human rights. States are the "duty-bearers," which means they have the primary obligation to respect, protect and fulfill those rights.[3] While there is general agreement on the idea of internationally recognized human rights, not all states accept all rights and some states are party to some human rights treaties but not others. States often become party to treaties but issue reservations to parts they do not agree with. Moreover, considerable disagreement exists on the definition and implementation of human rights. In addition, there is no consensus on what is permissible while promoting and protecting human rights. Human rights can also conflict with other important international norms and values. Most states jealously guard their **sovereignty**. Sovereignty is a centuries-old legal principle that holds that the state, or representatives of the state (the government), has the final say within its territorial jurisdiction. For many states, this includes the right to define and implement human rights. A companion legal principle to sovereignty is the principle of **nonintervention**. This means that states have the duty not to intervene in the internal affairs of other states. This certainly applies to coercive military intervention but many states also see sanctions, the withholding of aid, and even the mere discussion of a state's domestic human rights situation as forms of intervention.[4]

Prior to World War II, human rights issues were largely considered to fall within the domestic jurisdiction of states, therefore, not subject to serious outside scrutiny. However with the creation of the UN in 1945, a legal revolution occurred whereby states exercised their sovereign prerogatives and agreed to international human rights laws that clearly regulate what a state can and cannot do to the people within its territory. States, when they join the UN, take on the legal obligation to promote and protect human rights. The UDHR passed without a dissenting vote, although important states such as South Africa, the Soviet Union, and Saudi Arabia abstained. The UN Charter and the UDHR were revolutionary at the time because they challenged the absolute sovereignty of the state and placed human rights squarely on the international agenda. Article 55 of the UN Charter states:

> With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

a. higher standards of living, full employment, and conditions of economic and social progress and development;
b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56 contains the pledge to take joint and individual action to achieve the purposes contained in Article 55. At the same time, Article 2(1) of the UN Charter also privileges the sovereign equality of states and Article 2(7) prohibits the UN from intervening in the internal affairs of states. With the onset of the Cold War international human rights became politicized as both sides in the East–West conflict of the Cold War used human rights to try to delegitimize the other. The United States condemned the Soviet Union and Eastern Bloc states for suppressing civil and political rights and, conversely, the United States was criticized for its unemployment, racial segregation, and poverty. Moreover, the often violent decolonization process greatly expanded the number of states that constituted "the international community." These newly independent states were not keen to curb their hard-fought sovereignty or necessarily subscribe to existing values or definitions of human rights. The economic and political disparities between North and South led to a divide where developing states began to challenge the rules and values they perceived to privilege the wealthy.

Competing and contradictory international norms, values, and principles, as well as disagreements regarding the definition and implementation of human rights, has led to several ongoing debates. The first debate centers on whether human rights are universal or culturally relative.[5] During the preparatory session for the UDHR, and after it was passed, the American Anthropology Association expressed grave concern regarding the origins and consequences of the "universality" of human rights. Universal human rights centers on the idea that rights are applicable to all humans, whereas the cultural relativist approach holds that rights are relative and to be understood in the context of the culture in which they are being actualized. The rights articulated by the West could be interpreted as a form of colonialism in that they prescribe certain kinds of domestic laws and even government type. In order to have cultural diversity, rights must be defined and implemented by societies differently. At the same time, many cultural and religious practices can be harmful to human dignity and be discriminatory on the basis of sex, sexual orientation, or minority status. After six decades of debate, the literature and development of international and domestic human rights law suggest that human rights are "relatively universal."[6] Certain rights do appear to be universal, such as the right to freedom from torture, while others, like the right to marry, health care, or to participate in public life, are still relative. The tension between cultural relativism and universalism is something that needs to be managed by states and the international community and informs the ways human rights are pursued and promoted through diplomacy.[7]

A related debate centers on the extent to which some rights are "basic" or fundamental versus rights that are aspirational or desirable.[8] The latter risks "rights inflation," such as recent efforts to declare access to the Internet as a human right.[9] On the one hand, the idea of core defensible rights that are necessary for the enjoyment of life, such as the physical security of the person, makes sense in light of cultural diversity concerns and the difficulties of reaching relative consensus among the international community's 193 states. On the other hand, the minimalist approach may unnecessarily limit rights to the lowest possible common denominator and neglect the rights of certain groups that have considerable difficulty in obtaining basic rights.[10]

Another human rights controversy focuses on the relationships between "generations" of rights and between positive and negative rights. These disagreements are rooted in different worldviews and ideologies (discussed in detail in Chapter 2) about how international relations operate. For example, the United States promotes civil and political rights as being more important to human dignity, whereas China stresses economic rights and the right to development. The United States also tends to view human rights protection as restricting state interference with individual freedom as opposed to having the state take strong action to provide for rights, especially if it means heavily regulating business or markets. The United States sees the freedom of conscience as a human right but rejects the idea that health care must be provided by the state for all. Many socialist states are more comfortable with government regulation on behalf of economic and social rights, but may still reject the idea they have to provide jobs paying a living wage for all within their territory, regardless of citizenship. Some totalitarian states feel restricting civil and political rights are necessary for stability, harmonious relations, and economic growth. States tend to prioritize certain kinds of values and human rights based on their dominant ideology or political culture. Other actors, such as IGOs and NGOs, seek to stress the indivisibility and interdependence of human rights.

These disagreements make human rights controversial, in turn making the promotion and protection of human rights through diplomacy complicated, problematic, and necessary. Diplomacy is necessary because the pursuit of human rights and humanitarian principles are part of the global political process. This process also involves the pursuit of other values, such as free markets, sovereignty, government type, and economic development, all of which arguably can promote and preserve human dignity (or threaten it). The process involves prioritizing and pursuing policies, values, and interests that may actually conflict with each other. The world can also be a very dangerous place, with war, terrorism, and other forms of violent conflict occupying the attention of states. War, terrorism, and other forms of violent conflict are certainly not conducive to human dignity and the wrong policies can exacerbate a violent situation and prolong human suffering. Hence, human rights diplomacy is necessary for defining and implementing rights and for keeping human rights as a priority on the global agenda. This invariably involves pursuing some human rights at the expense of others. It also means human rights must be weighed against the other interests of states, many of which have a profound impact on the quality of human life.

Human rights and humanitarianism

Human rights are entitlements that are designed to promote human dignity. Human rights restrict what a state can and cannot do and place a duty on states to protect human rights by preventing abuses and taking action so human rights can be enjoyed. However, action is often taken by states and other actors, not because foreigners have a legal right, but because it is the humane thing to do. This is often referred to as **humanitarianism**. For example, many states will provide emergency food and medical assistance to those experiencing natural disasters and civil disturbances, not because states believe persons have a legal right to that aid or because states feel they have the legal obligation to provide the aid, but because they believe that it is the right thing to do. Since the definition and implementation of international human rights is contested on many levels for a variety of reasons, humanitarianism allows states and others to sidestep the often thorny issue of rights, duties, and obligations and take action.

Complementing, and yet complicating, international human rights law and humanitarianism is **international humanitarian law (IHL)**. Similarly focused on promoting human dignity, IHL governs the conduct of armed conflict. Strictly speaking, international human rights law refers to the relationship between the state and the persons within its territorial jurisdiction. It results from a separate legal history and it allows states to deviate or derogate from the law in certain situations. For example, Article 4(1) of the ICCPR allows states to restrict the enjoyment of many rights during a public emergency. Similarly, Article 9 allows liberty to be curtailed with due process of law, which allows states to deny certain rights to those convicted of a crime.

IHL emanates from a different legislative history, which includes the **Geneva Conventions**, and is designed to preserve the dignity of those who are not engaged in hostilities during armed conflict. These persons are often referred to as the "victims of war" and they include the civilian population, the wounded, and those who have laid down their arms (prisoners of war). One way to think about IHL is that, among other things, it protects human rights and dignity during war by regulating the conduct of war and creating legal obligations for belligerents. It also reinforces the inviolability of certain rights where no derogation is permitted, such as the prohibition of torture, arbitrary detention, and summary execution. Given the overlapping and complementary nature of international human rights, humanitarianism, and IHL, human rights and humanitarian diplomacy are often treated together.

The actors

A variety of actors participate in human rights and humanitarian diplomacy. The first and the most important actor, is the **state**. Since the **Peace of Westphalia** in 1648, international relations has been organized around the territorially-based state that exercises authority over the population within its recognized borders. Representatives of the state (the government) create laws domestically and internationally that define

and prescribe its relationships with its people and with other states. Under the Westphalian order, states are the subjects of international law. They have the legal personality to make international law and to assume duties and obligations under that law. States make decisions as to when and how to develop international human rights and humanitarian law. They also decide how to implement human rights at home and whether (and how) to take action abroad for humane reasons. The state remains the greatest protector of, and the greatest threat to, internationally recognized human rights. As such, states remain central to defining and implementing human rights and humanitarian principles.

The pursuit of human rights also involves **intergovernmental organizations (IGOs)**. These organizations are created by states to help them take collective action. When states use IGOs to help them take collective action relating to a specific issue, this is often referred to as **multilateral diplomacy**. Within the UN system, states may use the UN Security Council or the Human Rights Council (HRC) to take action to promote and protect human rights and humanitarian principles. The political will of states is necessary for IGOs to be effective; however, at the same time, once created, IGOs can become independent actors in their own right, challenging states to improve their human rights and humanitarian records. Many IGOs have the protection and promotion of human rights as one of their central purposes and some even have specialized agencies devoted to promoting and protecting human rights. For example, the UN has the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations High Commissioner for Refugees to educate, advocate, and implement human rights and provide humanitarian aid. Similarly, regional organizations, such as the European Union and the Organization of American States, have human rights commissions and even courts to assist individuals in exercising their rights and help states to adhere to international human rights standards. When IGO officials independently advocate or negotiate on behalf of human rights and humanitarian principles, this is known as **IGO diplomacy**.

Nongovernmental organizations (NGOs) are part and parcel of the human rights and humanitarian diplomatic process. NGOs are private, not-for-profit, voluntary organizations that have policy goals. Human rights NGOs monitor human rights and humanitarian situations and pressure states through lobbying and by organizing grassroots campaigns. Many also function as "subcontractors" delivering bilateral and multilateral humanitarian aid provided by states in conflict zones and during the aftermath of natural disasters. Increasingly traditional human rights organizations such as Amnesty International and Human Rights Watch are also involved with promoting IHL, especially as it relates to the treatment of detainees and the questionable legality of renditions and drone strikes during irregular war. The building blocks of international/global civil society are NGOs and **NGO diplomacy** is central for the creation and enforcement of international human rights and humanitarian norms.

The increasing importance of non-state actors in human rights and humanitarian diplomacy, especially as it relates to creating, defining, and implementing human rights and humanitarian principles, means that international relations is no longer the sole domain of states. International relations is more global and more cosmopolitan

where civil society actors, such as NGOs, individuals, and business, all play roles in creating international laws and promoting international norms.[11] Much attention has been paid to how business practices can promote (and threaten) human rights. **Corporate Social Responsibility (CSR)** has become a special vehicle for businesses to become part of the human rights network. Originally an initiative of former UN Secretary-General Kofi Annan called the Global Compact, the idea behind CSR is to educate businesses and corporations about internationally recognized human rights and to recruit them as partners in the protection of human rights. While the duty to promote and protect human rights (from harmful business practices if necessary) resides primarily with states, the business sector increasingly has a role in actualizing human rights. The initiative of CSR is voluntary and not without criticism.[12] Nevertheless, it recognizes the dynamic relationship between business practices and human rights and dignity.

No discussion of the actors who participate in human rights and humanitarian diplomacy is complete without attention to the importance of individuals both in influencing how states, IGOs, and NGOs approach human rights and humanitarianism, and in their success of negotiating strategies. States, IGOs, and NGOs are collections of individuals who can affect the development of international human rights and humanitarian norms. The praises of Henry Dunant, Hansa Mehta, Charles Malik, and Eleanor Roosevelt are widely sung for their watershed work in furthering human rights and humanitarian principles. Heads of state, such as US President Jimmy Carter, South African President Nelson Mandela, and Irish President Mary Robinson, have shaped the human rights priorities of their governments. Celebrities such as Angelina Jolie, Bono, and George Clooney call attention to humanitarian disasters around the world and help to raise money to alleviate suffering. The often-unsung heroes of human rights and humanitarian diplomacy are the "human rights professionals" who work every day in offices, or in the field, for states, IGOs, and NGOs to further human rights and humanitarian principles.

One of the central purposes of this book is to help educate those who are, or want to be, engaged in human rights and humanitarian work about the process and complications associated with human rights and humanitarian diplomacy, with all the attendant controversies surrounding the definition and implementation of human rights and humanitarian principles. This book does not purport to say what the right strategy is, but rather, to show that the competition between different perspectives will ultimately determine what human rights and humanitarian values are and how they will evolve in the future.

Types of diplomacy

Diplomacy can take place between different actors and in a variety of venues. While states have been and remain the principal diplomatic actors, diplomacy is also conducted by IGOs, NGOS, and even private individuals. Diplomacy related to human rights and humanitarianism may be public in that the issue is placed squarely on a

foreign policy agenda, or in the media, and is subject to public scrutiny and comment. This type of **public diplomacy** also can take the form of propaganda. It is designed to provide information in order to mobilize mass public opinion and/or put pressure on public officials to adopt a course of action. This information comes in the form of reports, speeches, press releases, and media outreach/appearances. States, IGOs, NGOs, and individuals increasingly have taken to social media such as Twitter, Tumblr, Snapchat, and Facebook to communicate with people all around the world. Often referred to as **diplomacy 2.0**, social media can be an effective way for government officials to reach out to domestic and foreign audiences. Social media can level the playing field by allowing a variety of actors to document and publicize violations of human rights and humanitarian principles. Diplomacy 2.0 also enables small groups and individuals to mobilize public opinion and challenge the official narrative articulated by governments.

Private diplomacy, on the other hand, involves the behind-the-scenes, quiet approach to protecting and promoting human rights and humanitarian principles. Also known as "quiet" diplomacy, private diplomacy is usually preferred because it allows the involved parties the opportunity to avoid losing honor or prestige while at the same time improving human rights conditions. Unfortunately, the nature of private diplomacy makes it difficult to analyze, although it clearly takes place, as is evidenced when a political prisoner is released or a UN resolution is publicly announced. The Wikileaks disclosure of private, diplomatic cables between US embassies and consulates and their counterparts around the world show that human rights and humanitarian principles are a significant, if inconsistent, part of the overall diplomacy of states. At the same time, the disclosure also put human rights activists at risks in troubled area such as Afghanistan and Iraq. Public and private diplomacy influence how human rights and humanitarian diplomacy is conducted through multiple channels.

Channels of diplomacy

The bargaining, negotiating, and advocating process associated with human rights and humanitarian diplomacy, whether private or public, occurs through many channels (or modes) of diplomacy. One channel of diplomacy is **summit diplomacy**. Summit diplomacy involves the heads of state or leaders of governments. Summits have the advantage of helping leaders develop personal relationships which could assist them in tackling difficult problems. However, summits often have many agenda items, with human rights sometimes being downplayed or conspicuously absent from the agenda. For example, the 2013 bilateral summit between US President Barack Obama and China President Xi Jinping addressed the ongoing crisis with North Korea, climate change, and cyber-attacks, but not human rights in any significant way. During the Cold War, human rights figured prominently in bilateral summits during the thaw of relations that began in the 1970s.

Multilateral summit diplomacy often occurs in the context of G8 and G20 diplomacy (groups of the eight and twenty largest economies). These summits originally began to promote economic cooperation but, in recent years, the agenda has become more complex, including security, social, and human rights issues. Moreover, such summit meetings involving important states (thus commanding international media attention) can serve as the impetus for "**counter-summits**" or protests by NGOs and other civil society actors who use the gathering to raise human rights issues. The 2013 G20 Summit in St. Petersburg, Russia, was notable because while its main agenda item was the scourge of corporate tax havens, international media attention was focused instead on the counter-summit, which highlighted Russia's human rights record in relation to Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) rights and US surveillance tactics worldwide. This kind of diplomacy keeps human rights at the forefront of international relations by bringing international attention towards human rights violations.

Human rights diplomacy is often channeled through IGOs and conducted by independent officials representing IGOs such as secretaries-general or commissioners. This IGO diplomacy happens when officials use their "good offices" (meaning their prestige) to promote and protect human rights. They head relatively autonomous international bureaucracies that support their mandates. While IGO diplomacy centering on human rights usually engages states, IGO officials also engage with other non-state actors in human rights and humanitarian diplomacy. This kind of diplomacy is also known as **network diplomacy** because successful diplomatic strategies today need to mobilize networks of actors.[13]

Conference diplomacy can occur in tandem with summit diplomacy or independently of summits. Conference diplomacy is a form of multilateral diplomacy and is often conducted under the auspices of an IGO, usually the UN or a regional organization. Conferences are sometimes attended by heads of states, but more often conference diplomacy involves high ranking government and IGO officials. Occasionally, conferences can be devoted solely to human rights or humanitarian issues. For example, in 1993 the World Conference on Human Rights was held in Vienna under the auspices of the UN and led to the creation of the office of the UN High Commissioner for Human Rights. In 1995 the Fourth World Conference on Women was held in Beijing to improve the status of women's human rights. NGOs often participate in global conferences or they hold civil society **parallel conferences**. In the realm of humanitarian affairs, **pledging conferences** are organized by the UN and other organizations to raise money for the victims of armed conflict or natural disasters. Recent examples of pledging conferences include UN efforts to raise money for internally displaced persons (IDPs) in Syria and for Syrians who have fled to neighboring states.[14] Another conference involved generating resources for the victims of typhoon Haiyan which devastated entire provinces in the Philippines in 2013. This allows the UN to raise money for humanitarian relief from private actors, as well as states.

Conference diplomacy is also a prelude to the formal codification of international human rights and humanitarian law. International human rights and humanitarian

treaties (and organizations) are the result of conferences of interested state parties coming together to hammer out framework agreements to generate international consensus regarding principles, norms, and aims. The conferences often aim to produce the text of international law and often include voices from civil society.

Another channel of human rights diplomacy is **commission diplomacy**. Commission diplomacy has two variations. The first involves "high level panels" and commissions that can have a formative impact on the public good because they issue reports that then shape state and IGO policy.[15] Arguably, all modern panels and commissions impact human rights and humanitarian affairs because they provide a road map for ending a particular armed conflict or addressing a situation that impacts human rights and dignity, broadly defined. Examples include the Independent Commission on International Humanitarian Issues, the Independent International Commission on Kosovo, the International Commission on Intervention and State Sovereignty (ICISS), and the Commission on Human Security.

Another variation of commission diplomacy centers on the work of human rights commissions within IGOs. For the most part, this variation of commission diplomacy is a form of multilateral diplomacy consisting of the representatives of member states who have the responsibility of promoting human rights and sometimes even protecting human rights by hearing individual petitions. The now defunct UN Commission on Human Rights (since replaced by the HRC) was the center of human rights activity at the UN during much of the Cold War, but did not allow individuals to submit petitions. The European Commission on Human Rights (1954–98), similarly defunct, allowed private petitions and investigated complaints. The European Commission was abolished in 1998 when the European Court of Human Rights was expanded and reformed to allow private individuals to bring human rights cases. The League of Arab States, the African Union (AU), Organization of American States (OAS), and the Association of South East Asian Nations (ASEAN) have respective human rights commissions that are engaged more on promotional activities such as standard setting, rather than direct protection. As will be discussed in subsequent chapters, human rights commissions are often criticized by human rights NGOs for focusing their diplomacy more on protecting states and not human rights. The effectiveness of human rights commissions is debatable; however, they do represent international efforts to implement human rights according to agreed-upon international standards.[16]

Committee diplomacy centers on the committees created to monitor the implementation of specific human rights treaties.[17] Most of these treaty monitoring bodies track compliance and issue reports regarding the status of the respective rights covered by their constitutive treaty. Unlike human rights commissions which are comprised of state representatives, human rights monitoring committees are made up of independent experts who are nominated and elected by state parties. Depending on the treaty, some committees are also authorized to conduct country inquiries when there is compelling evidence that a state is systematically violating treaty provisions. Some committees also receive and investigate communications from private individuals. Since investigating complaints and conducting inquiries usually require state consent and cooperation, the committees have to routinely negotiate, bargain, and advocate with

state officials to further human rights and humanitarian principles. Committees also issue "general comments" which constitute their interpretations of the meanings of treaty provisions, which is useful since states and NGOs may have competing understandings and interpretations.

The term **humanitarian diplomacy** is used by the International Federation of the Red Cross and other humanitarian aid organizations to refer to the process whereby NGOs are involved with "persuading decision makers and opinion leaders to act at all times in the interests of vulnerable people and with full respect for fundamental humanitarian principles."[18] This is an important aspect of NGO diplomacy. As humanitarianism seeks to minimize the harm during violent conflict, and alleviate suffering during times of crisis, fundamental humanitarian principles involve not only the conduct of armed conflict but also the delivery of humanitarian aid. These fundamental principles of IHL include the distinction between civilians and combatants; proportionality; the humane treatment of prisoners of war (POWs); and refraining from torture.[19] The principles surrounding the delivery of humanitarian assistance include neutrality, impartiality, humanity, and independence.[20] Chapter 6 details the evolution of NGO diplomacy in their efforts to promote respect for humanitarian principles. Chapter 7 focuses on how human rights and humanitarian professionals conduct **field diplomacy** in order to gain access to vulnerable populations.

Tools and strategies

Successful diplomacy, regardless of the actors, involves several elements. First, parties must attempt to empathize with each other and see the issue from the other's perspective. This involves recognizing that human beings understand and perceive the world differently. **Worldviews** are sets of widely held beliefs that provide a mental map as to how the world works. This involves focusing on certain kinds of actors and the motivations for their behavior. In Chapter 2, several approximate worldviews are discussed to show how the promotion and protection of human rights can be seen simultaneously as part of a larger geopolitical power struggle, an effort to destabilize a government, or a form of imperialism that subjugates the poor. Understanding how others view human rights and humanitarian principles and recognizing that there are different conceptions and priorities of human rights and humanitarian principles is the first step in being able to successfully promote them. Second, actors need to recognize that oftentimes they will need to compromise or at least be comfortable with vague language that allows for multiple interpretations and glosses over differences of substance. Sometimes the language of international human rights and humanitarian law must be avoided altogether in order to further human dignity. Third, diplomacy requires trust and, when trust is absent, confidence-building measures must be pursued to bridge the trust deficit. This can affect the venue and the processes of diplomacy. Beyond these three elements, there is no set formula for successful human rights and humanitarian diplomacy because diplomacy is an art

form, a picture painted for a specific situation in a specific time. Some people may never be artists, no matter how hard they try, and some artists are qualitatively better than others.

When actors choose to pursue human rights and humanitarian principles, they must decide on the type of diplomacy and the channel(s), given their varying capabilities. States have more resources and access to diplomatic channels than non-state actors. Also, they have the formal architecture of diplomacy. States, therefore, tend to have the most direct effect, both positive and negative, on human rights. On the other hand, NGOs and certain agencies within IGOs have the benefit of being singularly focused on human rights and humanitarian affairs, which gives them more "moral authority" when it comes to human rights and humanitarian protection. They have no ulterior motives, per se. NGOs and IGOs are also well aware that they often have to rely on states for funding, protection, and the necessary visas to operate around the world. An expelled or poorly funded organization finds it very difficult to participate in human rights and humanitarian diplomacy.

Much of diplomacy involves getting an actor to do what they otherwise would not do. Actors must craft a strategy that combines types of diplomacy within the appropriate channels. Actors must also choose which instruments or tools to use. States have a variety of instruments and leverage at their disposal which can be used as carrots and sticks. The carrots serve as positive inducements and can include trade concessions, membership to organizations, economic assistance, military assistance, development aid, and humanitarian aid. The instruments can also be used as sticks when they are withheld. Sanctions and military force are also options. Definitions of diplomacy often distinguish it from war; however, diplomacy often leads up to the use of military force and is used to negotiate a cessation to hostilities. All of these instruments give state actors leverage in diplomatic bargaining or negotiating situations. They can be used to encourage certain kinds of behavior, like respecting and implementing human rights, and also to deter a course of action that threatens human rights and humanitarian principles. These instruments can be used to induce others to change their behavior. Officials must choose the right mixture of encouragement, and deterrence, and decide whether to do it privately or publicly.

State officials must also decide whether to pursue human rights and humanitarian diplomacy through track 1 (official) or track 2 (unofficial) diplomacy, and through multilateral fora (and deciding which one), and whether to use mediation, arbitration, or judicial remedies. **Mediation** is often nonbinding and usually involves finding a solution to a dispute that works for the parties rather than trying to assess who is legally right and wrong. **Arbitration** is similar in that the "legal right or wrong" of the parties are not as important in reaching a settlement. The difference is that the parties agree ahead of time to be bound by the decision of the arbiter. Many states have agreed to create courts and other legal and quasi-legal bodies (such as treaty monitoring bodies) to adjudicate disputes involving violations of human rights or humanitarian law.

Non-state actors are in a very different negotiating and bargaining position than states. Officials from IGOs and NGOs recognize that they have limited resources and options for engaging in human rights and humanitarian diplomacy. It does human rights and humanitarianism (as well as the organizations themselves) no good to alienate states. They have few tools to compel or deter outside of a strategy of "name and shame." If they go against the wishes of states they can be expelled, ignored, or find their funding cut. The name and shame strategy can backfire and officials are wise to use it sparingly. Rather, IGOs and NGOs contribute to the promotion and protection of human rights and humanitarian principles by providing reliable information and engaging in advocacy. Fact-finding and monitoring are crucial for promoting human rights and humanitarian principles. NGOs are also particularly good at organizing at the grassroots level and for setting standards. This kind of track 2 diplomacy can also help states promote and protect human rights and keep human rights as a priority. More recently, NGOs have been engaging in track 1 diplomacy by participating in human rights and humanitarian negotiations, as they were in the conceptualization and implementation of the International Criminal Court (ICC) and the Ottawa Convention which banned antipersonnel landmines.

NGOs, often working in tandem with IGOs, deliver humanitarian assistance in conflict zones which means they can run afoul of governments. Hence another dimension of humanitarian diplomacy means negotiating ceasefires, access, visas, and creating a "humanitarian space" between belligerents. Unlike traditional diplomacy, which occurs within an institutionalized framework, humanitarian diplomacy is more ad hoc and not subject to formal rules.[21] NGOs can also function like pressure groups, lobbying governments for favorable policies and for a rights-based approach to state foreign policy. They can employ direct techniques such as contacting government officials or by testifying before governmental bodies. NGOs can also use indirect techniques like mobilizing public opinion through letter-writing campaigns, paid advertising, letters to the editor, and op-eds. They can make extensive use of social media to publicize issues or cases. They can issue independent reports, file *amicus curiae* briefs with national and international courts, and provide legal services to individuals denied their rights. The distinction between advocacy and diplomacy thus become blurred. The strategies and tools used by NGOs vary but what remains unchanged is that NGOs are central to the landscape of human rights and humanitarian diplomacy.

Conclusion

Human rights and humanitarian diplomacy is conducted by multiple actors, through a variety of channels, using a wide range of tools and instruments. Human rights and humanitarian principles are widely accepted, although considerable disagreement exists regarding prioritizing, defining, and implementing those rights and principles. The

remainder of the text is devoted to fleshing out how human rights and humanitarian diplomacy is practiced at a variety of levels. All the chapters illustrate the central themes that:

1. The conduct of human rights and humanitarian diplomacy is often clumsy and cumbersome but is fundamental to the definition, discovery, implementation, and evolution of human rights and humanitarian principles.
2. Nothing is inevitable or inexorable about the progress of human rights and the development of humanitarian principles. It depends on world politics and the skills of diplomats. The art of diplomacy can be effective or it can be inept and problematic.
3. The actors who practice human right and humanitarian diplomacy are flawed, but different interpretations of rights and principles are more likely the result of worldview, rather than ill-will.
4. A multifaceted and concerted effort is necessary to preserve and advance human dignity in world politics.

Key terms

Human rights and humanitarian diplomacy, track 1 diplomacy, track 2 diplomacy, International Bill of Rights, Universal Declaration of Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, first generation human rights, second generation human rights, third generation human rights, sovereignty, nonintervention, humanitarianism, international humanitarian law, Geneva Conventions, state, Peace of Westphalia, intergovernmental organizations (IGOs), multilateral diplomacy, IGO diplomacy, nongovernmental organizations (NGOs), NGO diplomacy, Corporate Social Responsibility (CSR), public diplomacy, diplomacy 2.0, private diplomacy, summit diplomacy, counter–summits, network diplomacy, conference diplomacy, parallel conferences, pledging conferences, commission diplomacy, committee diplomacy, humanitarian diplomacy, field diplomacy, worldviews, mediation, arbitration.

Discussion questions

1. What is human rights and humanitarian diplomacy? Discuss the differences between human rights and humanitarianism and why they are often analyzed together.
2. What are human rights and why are human rights controversial?
3. Discuss the actors that participate in human rights and humanitarian diplomacy. How do the interests and worldviews of actors affect diplomacy?
4. Discuss and explain the different types and channels of diplomacy.

Notes

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