



# Human Rights & Conflict

Exploring the Links  
between Rights, Law,  
and Peacebuilding

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## The Human Rights Dimensions of War in Iraq

### A Framework for Peace Studies

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Scholars and practitioners of peace and conflict resolution have written persuasively against the U.S. intervention in Iraq and continue to criticize the U.S. role in “post-Saddam Iraq.” However, one powerful framework is largely missing from their analysis: human rights. The invocation of a human rights framework provides a vocabulary and space within which alternatives may be considered and evaluated. By failing to integrate the human rights dimensions of the problem into their analysis, peace studies scholars may be overlooking key support for their general argument and may thus miss an integral component of any long-term solution.

This chapter illustrates how the adoption of a human rights framework may prove useful for analyzing issues of pressing concern to peace studies, such as the use of force, the imposition of sanctions, and general neglect of nonviolent alternative responses to state violence. Although the focus of this paper is Iraq, the human rights framework introduced here has broad applications. Our discussion is divided into three parts. We begin first by defining what is meant by the “human rights framework,” pointing especially to its intended goals and emerging utility in policy analysis. With this framework in mind, we then turn to the case study and analyze two human rights records: Iraq’s human rights record under Saddam Hussein,<sup>1</sup> and the human rights impact of the international sanctions regime during the same time period. We consider diplomatic options and other avenues for addressing both of these regimes, which, according to human rights principles, should have been more fully considered before the United States resorted

to force in Iraq. In conclusion, we underscore the importance of applying a human rights framework to the treatment of prisoners under U.S. control.

### The Human Rights Framework

To the extent that scholars and practitioners can find agreement on the content of human rights, they do so on three fundamental precepts: First, adherence to human rights requires acknowledgment of the dignity of individuals. That this principle focuses on the individual does not negate the importance of community. Individuals are not free-floating entities; they exist and derive meaning through social relationships and communal responsibilities and duties.<sup>2</sup> The identification and enforcement of human rights thus depends greatly on community. As Jean Bethke Elshtain notes, “[rights] are woven into a concept of community . . . [and] . . . are intelligible only in terms of the obligations of individuals to other persons.”<sup>3</sup> The idea of human rights, however, necessitates recognition of the agency and identity of the individual that may exist apart from the community. It insists that “essential to [each individual’s] dignity, and to a life worthy of a human being, is the simple fact that they are human beings.”<sup>4</sup>

The notion that each human being should be treated with dignity solely because he or she is human<sup>5</sup> requires acceptance of a second principle: the moral equality of human beings. “Since all human beings have dignity and need common conditions of growth,” Bhikhu Paarekh observes, “their claims to them deserve equal consideration and weight.”<sup>6</sup> Equality is inherent to the very premise of human rights, and it informs day-to-day application of human rights norms. This equality does not equate with uniformity, nor should it be confused with homogeneity. Equality and pluralism are not mutually conflicting values but often prove challenging to hold simultaneously to the same degree.

The third integrally related principle pertains to the notion of moral worth. This is the idea that all humans have value and therefore all can make a contribution to society. This notion of worth, like the related concept of equality, does not mean that all people are treated the same or that all benefits and burdens in society must be distributed in identical fashion. Differences in treatment may still exist, but any differential treatment must respect the moral worth and dignity of individuals.<sup>7</sup>

The central task of the human rights framework is to organize these three fundamental principles—the equality principle, the human dignity principle, and the moral worth principle—and more specific widely held values into a structure of legally enforceable rights. The foundational

international instruments of the international human rights framework—the Universal Declaration of Human Rights,<sup>8</sup> the International Covenant on Civil and Political Rights,<sup>9</sup> and the International Covenant on Economic, Social, and Cultural Rights<sup>10</sup>—focus on the need to protect individuals from abuse by governmental authority. Moreover, although these documents put all civil and political rights (such as the right to free speech and religion) on an equal footing with economic, social, and cultural rights (such as the right to education or health care), greater attention has been paid by most Western governments and NGOs to civil and political rights. “Politicized by the Cold War-era ideological debates, the human rights system was bifurcated and economic and social rights historically relegated to a secondary and at best ‘aspirational’ status.”<sup>11</sup> This orientation has been reconsidered in recent years with an increasing realization that nonstate actors, groups, and organizations can also be responsible for many atrocities and that economic wrongs may be as grave and in need of redress as any civil and political abuses committed by state actors.<sup>12</sup>

Thus, in recent years NGOs have increasingly argued that human rights standards should be applied to the United Nations as a collective body. The United Nations is not a party to any human rights instruments, and indeed many treaties specify that they will entertain only states as parties, thereby foreclosing participation by nonstates in these regimes. Nonetheless, several grounds have emerged for holding the United Nations accountable to human rights standards whenever it intervenes in a state, for example, when it imposes economic sanctions.<sup>13</sup> One argument for this development is that “the United Nations is bound by international human rights standards as a result of being tasked to promote them by its own internal and constitutional order.”<sup>14</sup> In other words, the United Nations is “obliged to pursue and try to realize its own purpose.”<sup>15</sup> Alternatively, the United Nations may be said to be bound by international human rights norms when it is acting as a state. The reasoning here is that “states should not be allowed to escape their human rights obligations by forming an international organization to do their dirty work.”<sup>16</sup> At a minimum, the argument can be made that because the United Nations is bound by customary international law, it must follow those international human rights standards that have reached customary international law status.<sup>17</sup>

Enforcement of human rights depends on their recognition, not only at the international level but at the regional and domestic (state) level as well. The achievement of any human rights at any level is political in the sense that human rights claims are assertions for power. As Ram Manikkalingam observes, the key to political change is linking “human rights as a strategy

to improve the lives of the vulnerable [with] human rights as a universal philosophy that applies to everyone." He explains that "[w]hen the powerless or the dispossessed realize they have human rights because these rights are for everyone, they will be empowered to resist their oppressors and struggle for better conditions and improve their lives. And when the powerful realize that human rights apply to everyone, they will be shamed by a human rights report naming them as abusers of others' human rights."<sup>18</sup>

To some extent, however, the addition of the human rights framework to political discourse only perpetuates conflict. To say that an individual has rights against a state is to create a conflict between the "rights holder" and the "rights withholder." Those who assert their own and others' human rights necessarily conflict with the violators and, in a different way, with bystanders to the abuse. Nonetheless, human rights do provide a common framework and language for hearing disputes, and conflicts over the meaning and application of human rights standards need not turn violent. Human rights may increase citizen participation in problem solving and provide a civil mechanism for translating, reflecting on, and challenging claims to power.<sup>19</sup>

The application of a human rights framework may play a *transformative role* in changing malfunctioning relationships and structural problems that lie at the root of conflict. So instead of just helping to manage conflict, human rights actually wield transformative potential.<sup>20</sup> Certainly human rights institution-building projects can happen in a manner that legitimizes regressive structures, but they can also support new structures and alternative modes of understanding and reacting to conflict. A human rights approach helps unravel the connection between social wrongs and structural and cultural divisions and inequities.<sup>21</sup> At the same time, attention to human rights issues promotes social justice and civic participation and supports the establishment of institutions consonant with these norms.<sup>22</sup>

How does the human rights framework assist in identifying problems lying at the root of violent conflict in Iraq? And to what extent were policy options with respect to U.S. actions in Iraq informed by the human rights framework? Human rights issues appear at each stage of the responses to Iraq. Some critics would point to the failure of the United States to respond effectively to the abusive record of the Saddam Hussein regime. Others would point to the human cost of U.S.-supported United Nations sanctions on Iraq. And yet others would focus on the U.S. decision to intervene in Iraq, or the behavior of U.S. troops and other U.S. actors during and after the intervention (including the mistreatment of detainees and prisoners of war, and the abuse of civilian noncombatants). This chapter examines the

application of the human rights framework at all the stages leading up to and including the decision to intervene; it leaves discussion of the human rights abuses during and after intervention to a later date, although the conclusion sketches the contours of how the human rights framework might be applied to examine behavior during and after conflict. One of the premises of this paper is that human rights provides a useful lens for analyzing and interpreting international relations, and that using a human rights framework will affect the problems one sees and the policy options one recommends as a result. While the data may be the same used by mainstream political analysts, human rights provides an added dimension to assessing tyranny and abuse. Applying the human rights framework reveals a different human rights problem in Iraq than was commonly voiced in the political debates.

### Application of Framework, Part 1: Identification of Problem

Not one but two regimes adversely impacted the human rights of the Iraqi people: the regime of Saddam Hussein and the international sanctions regime. While the Bush administration was interested in deploying the language of human rights in order to change the former—through military-induced regime change—it was consistently opposed to any changes in the latter. In this essay we assert that if international human rights and humanitarian norms are to have any credibility, the effects of both regimes must be acknowledged and addressed. In turn, recognizing human rights concerns will contribute toward improving the human rights situation in Iraq and may also help to stabilize the country, with a minimum of violence.

### Human Rights Violations within Iraq

The Iraqi people suffered a consistent pattern of gross violations of internationally recognized human rights under Saddam Hussein, including political imprisonment, torture, and summary and arbitrary executions. This section outlines these violations because, while they are often cited by the Bush administration as justification for invading Iraq and removing Saddam Hussein, the timing and nature of the abuses shed light on whether this case justified humanitarian intervention according to generally agreed-upon criteria.

Iraq used a variety of mechanisms to squelch political dissent, including house-to-house searches; arbitrary arrests, often in large numbers; surveillance; harassment and questioning of family members; detention of targeted individuals, such as those returning to Iraq pursuant to amnesties,