

Introduction and overview

THOMAS RISSE AND STEPHEN C. ROPP

More than ten years ago, Thomas Risse, Stephen Ropp, and Kathryn Sikkink co-edited *The Power of Human Rights: International Norms and Domestic Change*, a volume whose centerpiece was a spiral model of human rights change (PoHR in the following, see Risse *et al.* 1999). PoHR was published on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights and ten years after the peaceful revolutions in Central Eastern Europe which then ended the Cold War. More than a decade later, dictators are on the run in the Middle East. These political changes in Tunisia, Egypt, Libya, and elsewhere are having profound effects on this region of the world, including the human rights situation there (see [Chapter 10](#)).

Over the past ten years, human rights policies have also changed considerably: First, we witness the gradual emergence of a new model of criminal accountability used by states acting collectively through the International Criminal Court (ICC) to hold individuals responsible for human rights violations (Deitelhoff 2006; Sikkink 2011). And a new international norm has emerged, the Responsibility to Protect (R2P), referring to the responsibility of the international community to intervene – by military means, if necessary – if state rulers are unwilling or incapable of protecting their citizens from gross human rights violations (Evans 2008; Weiss 2005). R2P was recently put to a test with the Western intervention in Libya which had been endorsed by the United Nations Security Council and backed by the Arab League as well as the domestic opposition in Libya.

Second, we see an increasing recognition by states and other actors in the human rights field that weak or limited statehood has become a major obstacle with regard to domestic implementation and compliance. Limited statehood refers to parts of a country's territory or policy areas where central state authorities cannot effectively implement or enforce central decisions or even lack the monopoly over the means of violence (Risse 2011b; see [Chapter 4](#)).

We thank the participants of the two workshops in Wyoming in August 2009 and in Berlin in June 2010 for their detailed comments on the draft of this chapter. We are particularly grateful to Arie Kacowicz, Kathryn Sikkink, and three anonymous reviewers of Cambridge University Press.

Third, private actors such as firms and rebel groups are increasingly committed to complying with international human rights standards in a direct way rather than through the mechanisms of domestic law. Within companies, for example, we can observe an emerging international norm of corporate social responsibility that embeds human rights standards in corporate doctrine (e.g. Prakash and Potoski 2007; see Chapters 11 and 12; regarding rebel groups see Chapter 13). Moreover, other private actors, such as families and religious communities, are increasingly recognized as violators and subject to international campaigns – but not yet to consistent governance (Brysk 2005; see Chapter 14).

Last but not least, human rights scholarship has evolved considerably. Human rights research of the 1990s was characterized by comparative case studies as the dominant approach (e.g. Brysk 1994; Clark 2001; Hawkins 2002; Keck and Sikkink 1998; Risse *et al.* 2002). This has changed in that researchers using quantitative methods have begun to investigate the processes and mechanisms by which international human rights norms spread (particularly Hafner-Burton 2008; Simmons 2009). At the same time, international lawyers have become aware of the increasing social science scholarship on human rights, while political scientists started to take the particular characteristics of law seriously (see e.g. Alston and Crawford 2000; Goodman and Jinks 2003; in general Goldstein *et al.* 2000).

This combination of political and academic developments strongly suggests that we take a fresh look at the past twenty years of human rights research. On the one hand, the socialization mechanisms identified in the original PoHR for turning international law into domestic practices have generally held up well in the “laboratory” of subsequent empirical testing. More specifically, we see that much of the recent quantitative work seems to support our earlier largely qualitative findings (see Chapter 3). These mechanisms of change can also be applied to the new human rights agenda, particularly with regard to private actors and their compliance with international norms.

On the other hand, we recognize that our original work on human rights had several weaknesses. First, we under-specified the processes and scope conditions by which and under which states as well as private actors could be moved from commitment to human rights norms to actual compliance with them. Second, our earlier work assumed the presence of fully functioning states, suggesting in turn that compliance with human rights norms was a matter of state commitment and willingness rather than of institutional capacity. “Limited statehood” challenges this assumption and forces us to take a fresh look at the compliance *problématique*. Finally, we did not look at compliance with human rights norms by powerful states like the United States or the People’s Republic of China (see Chapters 8 and 9). This would seem to be a particularly important task in light of post-9/11 US non-compliance during the George W. Bush administration with the anti-torture norm and China’s continuing resistance to human rights pressures.

In this volume, we concentrate on the following research question: *Under what conditions and by which mechanisms will actors – states, transnational corporations, other private actors – make the move from commitment to compliance?*

This chapter proceeds in five steps. First, we recapitulate the spiral model of human rights change as developed in PoHR. Second, we introduce this volume's own unique focus on the processes leading from commitment to compliance, define the respective terms, and discuss the book's expanded focus – not only on a much broader range of actors but also on a more inclusive set of human rights. Third, we take a closer look at the mechanisms and modes of social action that we believe can move these various targeted actors from commitment to compliance; here, we build upon and further specify the mechanisms described in the original spiral model. Fourth, and most important, we introduce the centerpiece of this book's theoretical argument – namely the impact of a set of scope conditions under which movement by state and non-state actors from commitment to compliance is more or less likely to occur. These scope conditions are then evaluated in subsequent empirical chapters. We conclude with a short description of the plan of the book.

The “spiral model” of human rights change revisited

We begin with a brief description of the spiral model of human rights change originally developed in PoHR. The key questions we wished to ask in PoHR were whether it was possible to model the various processes involved in the movement from norm expectation to real country-level results; and, if so, could we document the existence of these processes empirically through the use of country case studies of change in state human rights practices?

In attempting to answer these questions, our theoretical point of departure was the work of a well-known group of social constructivists who had been looking at the relationship between ideas and social processes in a number of diverse issue areas (Adler, 1997; Checkel 1998; Katzenstein 1996; Kratochwil 1989; Wendt 1992). The actual “spiral model” of human rights change that we developed in PoHR built upon work on the “boomerang effect” that had previously been done by Margaret Keck and Kathryn Sikkink (Keck and Sikkink 1998). Incorporating some of their insights about the causal relationships between various state and non-state actors and associated processes, we sought to come up with a more specified conceptualization of these relationships and processes that could be graphically represented.

The eventual result of these efforts was the “spiral model” of human rights change, for which we sought empirical evidence using a comparative case study approach. In our model, we identified three distinct types of socialization processes (instrumental adaptation, argumentation, and habitualization) that

appeared to work together to socialize non-compliant states to human rights norms during a series of five distinct phases (see Figure 1.1):

- (1) *Repression*: there was an initial phase during which the leaders of authoritarian regimes engaged in repression. While the degree of repression that the various regimes in our case studies engaged in varied widely from the quasi-genocidal behavior found in Guatemala (Ropp and Sikkink 1999) to Tunisia's "softer" neo-patrimonialist variant (Gränzer 1999; see Chapter 10), the resulting informational vacuum made it extremely difficult for opposition groups to convince authoritarian leaders that they had anything to deny. As a result, this initial phase tended to be a long drawn-out affair during which none of our three socialization mechanisms worked particularly well.
- (2) *Denial*: if transnational groups eventually succeeded in gathering sufficient information on human rights violations to initiate the advocacy process, our spiral model posited and our case studies documented a second phase that we labeled denial. While the domestic opposition usually remained too weak during this phase to mount a serious challenge to the regime, the increased lobbying of international human rights organizations and of sympathetic democratic states by advocate groups often evoked outraged "How dare you!" denials from officials in repressive states. Such denials reflected a continuing refusal to recognize the validity of international human rights norms and thus an unwillingness to submit themselves to international jurisdiction in such matters. However, we also found this denial phase to be of critical importance in that discursive engagement in any form and no matter what the nature of the "conversation" opened the door to the process of international socialization.
- (3) *Tactical concessions*: we found the third phase of our spiral model to be a particularly precarious one, characterized by a repressive state's use of tactical concessions in order to get the international human rights community "off their backs." These concessions normally included measures such as releasing a few political prisoners, showing greater tolerance for mass public demonstrations, and/or signing up to international treaties. We found that their use of this instrumental logic and subsequent making of what they believe to be "low cost" tactical concessions had an important secondary effect in that it facilitated the rapid mobilization and further normative empowerment of domestic advocacy groups. We found this phase of tactical concessions to be particularly precarious because the government could react to this rapid increase in mobilization either by engaging in unrelenting repression or by making even more generous tactical concessions.
- (4) *Prescriptive status*: while the tactical concessions phase tended to be dominated by a state logic of instrumentality, we found that the "terrain of contestation" shifted radically during phase 4 when states granted human rights

norms prescriptive status (see chapters on Eastern Europe and South Africa, Black 1999; Thomas 1999). The “prescriptive status” phase was characterized by a well-defined set of state actions and associated practices such as ratifying relevant international treaties and their optional protocols, changing related domestic laws, setting up new domestic human rights institutions, and regularly referring to human rights norms in state administrative and bureaucratic discourse.

- (5) *Rule-consistent behavior*: we called the fifth and final phase of our model “rule-consistent behavior,” i.e. behavioral change and sustained compliance with international human rights. In hindsight, we view this phase as involving a set of sub-processes that were somewhat under-specified. To the extent that we did specify these sub-processes in PoHR, we viewed them as consisting of a two-level game at both the domestic and international level that pitted proponents of actual implementation of now prescriptively validated human rights norms against their opponents. From this perspective, sustainable change in actual behavior that was consistent with these norms was viewed as the result of local pro-change groups being able to leverage international support in such a way as to eventually triumph over their domestic opponents.

As mentioned above, we sought empirical evidence for the general validity of our model by using the comparative case study method. Our initial operating assumption was that, by selecting paired country cases of human rights “success” and “failure” in a number of different world regions, we would be able to tease out the various factors that made a difference as they related to the five phases of our model. For “success stories” during the 1980s, we chose Chile, South Africa, the Philippines, Poland, and the former Czechoslovakia. The more difficult cases included Guatemala, Kenya, Uganda, Morocco, Tunisia, and Indonesia. In the meantime, scholars have extended the analysis to China, Egypt, Turkey, and Israel (see Chapter 2).

After examining the evidence gathered from country-level field research that was conducted by our team of German and American scholars, we concluded that the socializing mechanisms of change that we had built into our spiral model had a good deal of explanatory power for most of the individual cases. More importantly, the phased processes of human rights change specified by the model appeared to be generalizable across different types of political regimes, socio-economic systems, and cultural regions. While human rights progress was often uneven and our various phases occurred asynchronously in different countries over time, there was a clearly identifiable pattern of human rights progress that we could also model as a larger norms cascade (Finnemore and Sikkink 1998; see also Haglund and Aggarwal 2011 for a discussion of economic and social rights). Over three decades from the 1960s until the 1990s, the various phases during which human rights change occurred grew progressively

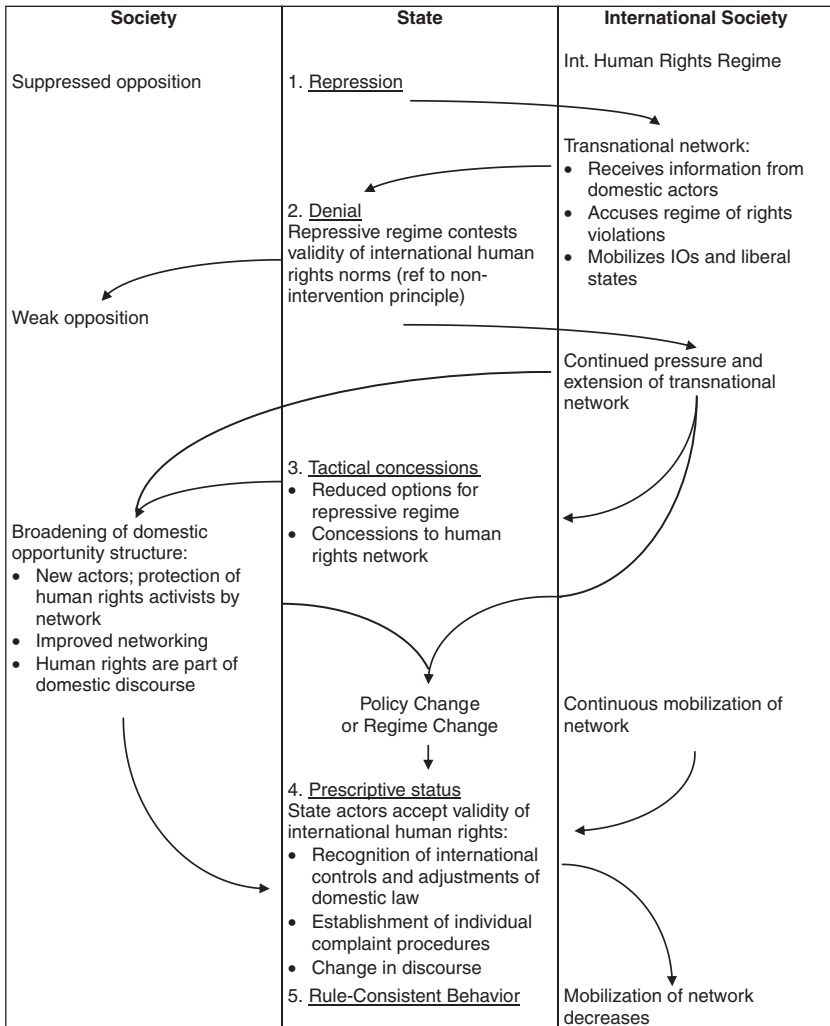


Figure 1.1 The “spiral model” of human rights change

shorter, leading to a “speeding up” of improvement in the overall global human rights situation.

Because we chose to model these causal processes, we opened ourselves up to both praise and criticism within the community of scholars working on human rights issues. Some of our scholarly critics emphasized certain sins of commission such as the fact that the spiral model seemed to “smuggle in” a hidden ideological agenda and that there was an associated linear teleological bent to the analysis. Additional alleged sins of commission included problems with the

measurement and operationalization of key variables, cases where the author's application of the model to a particular country did not seem to square with the empirical evidence, and inadequate treatment of human rights situations where competing norms were involved (see [Chapter 2](#)).

Other scholars emphasized various sins of omission, sins that in retrospect were often the result of the time period when our model was developed (during the 1990s and dealing with cases from the 1980s). For example, the spiral model of human rights assumed the existence of a core group of developed democracies that adhered to human rights norms and could thus legitimately socialize norm-violating regimes to "proper" behavior. It did not seriously take into account the fact that these core states could become norm-violators themselves (see [Chapter 8](#) on the United States). Additional sins of omission that have subsequently been recognized include the absence of attention to human rights violations in areas of limited statehood (see [Chapter 4](#)), and to the growing importance of non-state actors such as multinational corporations in the human rights field (see [Chapters 11](#) and [12](#)).

From commitment to compliance

The original spiral model dealt with the entire process relating to the human rights socialization of state actors – from repression and initial denial that international human rights law applied to them at all, to their eventual sustained compliance with these norms. More than a decade later, explaining state commitment to international human rights does not seem to be particularly interesting. In the twenty-first century, there is not a single state left in the international system that has not ratified at least one international human rights treaty (the Convention on the Rights of the Child topping all other global human rights treaties, see Liese 2006). Moreover, there is universal agreement that fundamental human rights constitute *ius cogens*, i.e. that part of international law to which states commit irrespective of whether or not they are party to individual treaties.

What does remain interesting is the fact that various actors other than states (e.g. NGOs, multinational corporations and rebel groups) increasingly commit themselves to basic human rights (see [Part IV](#) of this volume). As sociological institutionalists argue, the norm-guided logic of appropriateness now requires both governments *and* non-state actors in world society to at least pay lip service to the idea that there are such things as fundamental human rights (Meyer *et al.* 1997).

This book then focuses on the processes leading from commitment to compliance. By "commitment," we mean that *actors accept international human rights as valid and binding for themselves*. In the case of states and apart from *ius cogens*, this usually requires signing up to and/or ratifying international human rights treaties. With regard to non-state actors such as firms, NGOs, or rebel

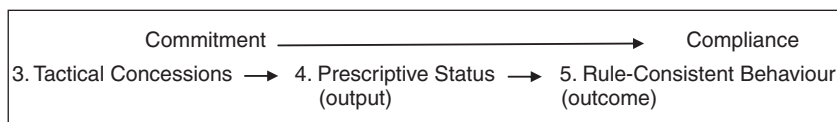


Figure 1.2 Commitment, compliance, and the spiral model

groups, commitment implies at a minimum some sort of statement that the respective actors intend to accept at least voluntary codes of conduct as obligatory (from self-regulation to multi-party “soft law” such as the Global Compact, see [Chapter 11](#)). “Compliance” is defined as *sustained behavior and domestic practices that conform to the international human rights norms*, or what we called “rule-consistent behavior” in the original spiral model. The authors of the various individual chapters in this volume specify in more detail what they mean by commitment and compliance.

We see commitment and compliance as two ends of a continuum (see [Figure 1.2](#)). The spiral model assumed that a government’s commitment to international human rights takes place initially as part of the “tactical concessions” phase. PoHR did not suggest that ratification of international human rights treaties automatically translates into compliance. Rather, we claimed that encouraging governments to move from commitment to compliance involves the application of continuous pressures “from above” and “from below” ([Brysk 1993](#)). Moreover, PoHR defined “prescriptive status” (phase 4 of the model) as the point in time when governments had not only ratified international treaties, but had also transposed them into domestic law, had created the necessary institutions to enforce these laws (e.g. human rights commissions), and had fully acknowledged the validity of international human rights in their official public discourse. In the language of research on compliance (e.g. [Raustiala and Slaughter 2002](#)), “prescriptive status” equals the output dimension of compliance while “rule-consistent behavior” (phase 5) refers to the outcome dimension.

Over the past decade, quantitative research on human rights has confirmed that ratification of international treaties does not lead to compliance per se (e.g. [Hafner-Burton and Tsutsui 2005](#); [Hathaway 2002](#); [Keith 1999](#)). Some authors have even gone so far as to suggest that rights violations became more severe after treaty ratification. This in turn led others to argue that qualitative and quantitative studies on human rights change were reaching different conclusions, with the authors of small-N case studies reaching more optimistic conclusions than those of large-N studies ([Hafner-Burton and Ron 2009](#)).

We disagree with the view that qualitative and quantitative methodologies are yielding strikingly different results (see particularly [Chapters 3 and 5](#)). The various chapters in this volume show a growing convergence between quantitative and qualitative findings on human rights compliance, especially when the quantitative researchers consider the impact of intervening variables such as regime

type when attempting to explain the movement (or lack thereof) from treaty ratification to compliance. For example, in the most sophisticated quantitative and qualitative study on the subject to date, Beth Simmons confirms the importance of some of the causal mechanisms that we originally proposed in PoHR. *Mobilizing for Human Rights* (Simmons 2009) looks at a wide range of human rights issues and demonstrates that three processes – elite-initiated agendas, litigation and political mobilization – do the explanatory work between commitment (e.g. treaty ratification by a given state) and compliance. At least two of these processes – judicial action enabled by human rights treaties and popular mobilization in favour of compliance – are consistent with the spiral model. In addition, Clark's chapter in this volume (Chapter 7) shows that public shaming of norm-violating governments through action by the UN Human Rights Commission matters for producing compliance once states have made a commitment. Murdie and Davis (2012) demonstrate similar effects with regard to human rights INGOs.

Yet, in PoHR, we under-theorized the process leading from commitment all the way to sustained rule-consistent behavior (see Chapter 2 on this point). We simply assumed, but did not explicitly specify, that the same causal mechanisms that worked to move the process along in the earliest phases would also be at work later on. We also thought that the social mechanisms to promote human rights would all be complementary and that there were no contradictions between them (see Chapter 6).

Furthermore, while the original spiral model was never meant to present a fair-weather picture of human rights change, we did not pay sufficient attention to instances in which states got “stuck” somewhere in the process or even experienced backlash. Two prominent cases come to mind: the People's Republic of China is often cited as a case in which external pressure, applied in an effort to improve human rights performance, did not produce results. However, Kinzelbach's chapter (Chapter 9) shows that the spiral model is indeed applicable to China, even though progress has been slow because the regime is much less vulnerable (in both material and ideational terms) to network pressure than are the regimes in many other countries.

An even more important case – both for academics and in terms of its political consequences – is US human rights performance during the administration of George W. Bush (2001–2009). The United States had been instrumental in bringing about the international Convention against Torture (CAT) and in creating an international normative taboo against torture and the use of other means of cruel and unusual punishment (except for the death penalty; see Sikkink 2004; Thimm 2009). The CAT received full bipartisan support in the US Senate after then-President George H.W. Bush submitted it for ratification in 1990. Yet, in the aftermath of the terrorist attack on the World Trade Center in New York City in September 2001, the US administration authorized special forms of treatment for those suspected of terrorism which

both the previous Clinton administration and the subsequent Obama administration had called by their real name – torture. How is it to be explained that a US president and a vice president could publicly defend the use of waterboarding without being faced with public outrage and being forced to resign? In more academic terms, the US case begs the question of whether the spiral model is suitable to deal with countries that experience such backlash against the domestic legitimacy of human rights norms. Sikkink's chapter (Chapter 8) tackles these issues.

As mentioned above, some of the most notable shortcomings of PoHR were sins of omission that resulted from the time period from which our cases were selected and during which we developed the spiral model (the 1980s and early 1990s). Although sophisticated theoretical accounts of the relationship between state and non-state actors in world politics had existed in the academic literature for a long time (Keohane and Nye 1971), the focus when it came to understanding human rights violators was still on states (primarily authoritarian ones) and their behavior in the late Cold War environment. As a result, PoHR emphasized a narrow set of “freedom from” rights (torture, disappearance, etc.) as well as the types of civil rights (freedom of expression, assembly, etc.) that are associated with established liberal democracies.

The more ambitious task that we set for ourselves in this volume on commitment/compliance mechanisms is to move beyond an exclusive concern with (authoritarian) states as principal human rights violators. We broaden the scope of this study to include non-state rule targets such as corporations and rebel groups (Part IV of the volume). Additionally, we expand the range of human rights that our chapter authors subject to case study analysis to include gender rights (Chapter 14) and labor rights (Chapter 11).

Mechanisms and modes of social action

This brings us back to one of the fundamental concerns of PoHR: how do the various socialization mechanisms that move the human rights process along go together and hang together (see also Chapter 6)? In that previous volume, we identified three such mechanisms (instrumental adaptation, argumentation and habitualization) that were in turn grounded in different logics of action. For example, we believed that the logic of consequences, which posits that leaders of authoritarian states will act rationally in order to balance the costs and benefits of external sanctions and rewards offered for “good” human rights behavior, explained some developments during early stages of the socialization process (e.g. the tactical concession phase). However, we devoted the majority of our attention to the impact of the logics of appropriateness and persuasion, in the sense that state actors were viewed as heavily influenced by human rights norms that suggested appropriate patterns of behavior within the international community of “liberal states.”

The first theoretical contribution of this book is to further tease out these relationships between various socializing mechanisms and to examine their impact. Our central point is that the logic of consequences and the cost-benefit calculations of utility-maximizing egoistic actors are often embedded in a more encompassing logic of appropriateness of norm-guided behavior as institutionalized in the contemporary international human rights regime. For example, firms committing to human rights might initially do so for purely instrumental reasons. They might have been subjected to consumer boycotts, and, thus, market pressures might have forced them to commit (see [Chapter 12](#)). However, these market pressures eventually lead to the incorporation of norms of appropriate human rights behavior into the cost-benefit calculations of firms. As a result, it no longer makes sense to test hypotheses derived from rational choice theory against those theories that stress norm-guided behavior. Rather, we aim at systematically examining the mechanisms and sequences (as well as their internal contradictions) by which the various modes of social action interact to bring about human rights change.

Scholars studying compliance have identified four such mechanisms based on different modes of social (inter-)action, two of which were already included in PoHR (e.g. Börzel *et al.* 2010; Checkel, 2001; Hurd 1999; Simmons 2009: [ch. 4](#); Tallberg 2002).

(1) *Coercion: use of force and legal enforcement*

State and non-state actors can be *coerced* to comply with costly rules. Coercion does not leave them much choice but to abide by the norms. Two cases need to be distinguished here, though. On the one hand, compliance with human rights norms can be imposed through the use of force by external actors. The emerging norm of the “responsibility to protect” ultimately aims at legitimizing such use of force to establish basic human rights standards.

On the other hand, while legal enforcement mechanisms often include coercive measures such as sanctions, they are seldom imposed on actors against their will. This is the case because states that have committed, for example, to the Rome Statute of the International Criminal Court (ICC) have voluntarily agreed to accept its provisions and to enforce them through domestic law as well. Thus, a Security Council referral to the ICC of a case like Sudan, which has not ratified the Rome Statute, can be seen as coercion. But a self-referral case brought to the ICC by a state actor that has ratified the Rome Statute (such as in the case of Uganda), should not be seen as coercion. Rather, it should be viewed as the legal enforcement of an agreed-upon prior commitment. The more human rights standards are subjected to international and regional judicialization and thus increasingly involve domestic, regional, or international courts, the more legal enforcement mechanisms come into play as a substitute for the use of force (see Sikkink 2011).

(2) *Changing incentives: sanctions and rewards*

Coercion, whether applied directly and against a recalcitrant actor's will or as part of a legal enforcement mechanism, undoubtedly needs to be recognized as playing a role in the overall change process. However, we believe that incentive structures play an even more important role in moving state and non-state actors from commitment to compliance. Utility calculations can be changed by raising the costs of non-compliance. This is the rational choice mechanism par excellence insofar as it is up to the respective targeted actor to decide whether or not to change her behavior in response to the changed incentives. Once again, we can distinguish two cases here. Sanctions are negative incentives often used by the international community to punish non-compliance.¹ The same holds true for positive incentives (e.g. foreign aid) to enhance compliance with international human rights. The portfolio of most international organizations as well as individual states contains strategies and instruments to induce compliance through incentives (for a discussion with regard to democracy assistance see Magen *et al.* 2009). The effectiveness of such sanctions and rewards will depend in part on the material and social vulnerability of the target actors, as we discuss below.

(3) *Persuasion and discourse*

PoHR heavily emphasized arguing, persuasion, and learning. If persuasion works, it has an advantage over either coercion or the manipulation of incentive structures in that it induces actors into voluntary compliance with costly rules (see e.g. Deitelhoff 2006; Müller 2004; Risse 2000). Persuasion is also more long-lasting as a socialization mechanism than manipulating incentive structures, since the latter leave actors' interests untouched. However, the successful use of pure persuasion through recourse to nothing but the "better argument" is extremely rare in international affairs. In reality, we mostly observe the use of a combination of arguing and incentive-based mechanisms, particularly when external actors try to induce rule targets – whether states or non-state actors – into compliance with human rights (for a general discussion see Deitelhoff and Müller 2005; Ulbert and Risse 2005).

But even if we do not observe processes of persuasion, discourse matters enormously as a mechanism leading to compliance. It is true that naming and shaming can only be successful if either the target actors or an audience central to the change process actually believe in the social validity of the norm. Once human rights have become a dominant discourse, however, this

¹ In some borderline cases, sanctions amount to coercion if they leave the target virtually no choice other than to comply.

discourse exerts structural power on actors. As a result, they are more likely to comply.

In addition to heavily emphasizing persuasion, we assumed in PoHR that arguing and discursive interactions had a “unidirectional” impact in that human rights advocates would always have the better arguments and that these arguments would eventually carry the day. In the meantime, and particularly in the post-9/11 environment, we have witnessed the emergence of powerful regime-based counter-discourses and narratives (see [Chapters 2, 8 and 9](#)). The existence of such discourses and narratives, together with the associated deterioration in the human rights behavior of the countries from which they emanate, obviously undermines our initial assumption regarding “unidirectionality.”

(4) *Capacity building*

There is a fourth mechanism leading to sustained compliance with international norms which we did not discuss in the original spiral model. Compliance research, however, has always emphasized capacity-building as a pathway to compliance. The “management” approach to compliance points out that involuntary non-compliance with costly rules is at least as important as non-compliance that results from the unwillingness of actors to abide by them (see Chayes and Chayes [1991, 1993, 1995](#)). So, if human rights norms are violated in areas of limited statehood because of a lack of state capacity to enforce them, the three other mechanisms discussed will not do the trick. PoHR did not pay attention to this mechanism and to the fact that commitment might not lead to compliance when central state authorities lack the institutional and administrative capacity to enforce decisions including human rights standards. In other words, PoHR assumed that governments were primarily unwilling rather than unable to comply, thus implicitly taking consolidated statehood for granted.

However, “limited statehood” is much more widespread in the contemporary international system than is usually acknowledged (see [Chapter 4](#)). Most important, areas of limited statehood are not confined to fragile or even failed states, but constitute a common phenomenon among developing countries. As a result, research on human rights has to take the management approach to compliance more seriously than has been the case so far. Capacity-building, as we understand it in this volume, refers to a highly institutionalized process of social interaction aiming toward education, training and the building up of administrative capacities to implement and enforce human rights law.

In sum, we believe that the four processes identified here capture the main social mechanisms which induce or prevent compliance with international human rights norms (see [Table 1.1](#)). These mechanisms rely on different modes of social action. The first and foremost theoretical task ahead is to specify the ways in which the four mechanisms relate to one another. They can be

Table 1.1. *Social mechanisms to induce compliance*

Mechanisms	Modes of social (inter-) action	Underlying logic of action
Coercion	Use of force Legal enforcement	Hierarchical authority (<i>Herrschaft</i>)
Incentives	Sanctions Rewards	Logic of consequences
Persuasion	Arguing Naming/shaming Discursive power	Logic of arguing and/or logic of appropriateness
Capacity-building	Institution-building, education, training	Creating the preconditions so that logics of consequences or of appropriateness can apply

complementary, additive or sequential. But they can also lack complementarity, operate haphazardly and even be subtractive (see [Chapter 6](#)).

Scope conditions for compliance

The second contribution of this book is to specify more clearly the scope conditions under which we would expect these four social mechanisms to induce compliance by both state and non-state actors with international human rights law. We have identified five such factors related to different types of states, regimes, and to the degree of vulnerability of states and other such rule targets to external and domestic pressures. The first two scope conditions apply only to states, while the remaining ones apply to any type of rule target.

(1) *Democratic vs. authoritarian regimes*

The original spiral model was developed and applied only to states with authoritarian and repressive regimes. We asked under which conditions a combination of external and internal mobilization of advocacy networks would bring about liberalization and human rights change within these regimes. The empirical case studies then showed that improvements of human rights almost always resulted from regime change and democratization processes (Morocco being the one exception, Gränzer 1999; see [Chapter 10](#)). Subsequent quantitative research also demonstrated that countries with democratic regimes are more likely to comply with human rights norms than authoritarian ones (for details see [Chapter 3](#); also Simmons 2009). In other words, regime type seems to matter.

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However, we need to specify here what we mean by “democracy” in order to avoid an endogeneity problem. Sophisticated conceptualizations of democratic rule usually include participatory and electoral institutions, the rule of law and – indeed – respect for human rights (e.g. Merkel and Croissant 2000; Merkel *et al.* 2003–2004). Datasets such as the Freedom House Index or the Bertelsmann Transformation Index (BTI) also include political and civil rights as indicators to measure regime type. But since human rights behavior is our dependent variable, rule of law and respect for human rights cannot also be part of the definition of democracy we use. To avoid these methodological problems and the subsequent tautological arguments, one should, therefore, use minimalist concepts of democracy focusing on the degree of competition for executive office and the degree of participation by citizens in electing their governments.

We assume that regime type as a scope condition not only affects the general propensity to move from commitment to compliance but also makes a difference with regard to the various social mechanisms specified above. In particular, one would expect that legal enforcement of human rights through domestic, foreign or international courts would bring democracies back into compliance (see Chapter 8 on the United States). Moreover, one would also assume that mechanisms of persuasion, naming and shaming are particularly effective with regard to stable democratic regimes given that respect for human rights constitutes an institutionalized logic of appropriateness in such systems. In contrast, using incentives – whether sanctions or rewards – to induce democracies into compliance might be counter-productive, because it might be perceived as insulting (see Chapter 6). The opposite might be true for autocratic regimes, since there is no institutionally embedded logic of appropriateness which could shame them into compliance.

(2) *Consolidated vs. limited statehood*

As already mentioned, the original spiral model assumed that states are unwilling rather than incapable of complying with human rights norms. We did not take into account the fact that some states lack the kinds of efficient and effective administrative structures and institutions that would allow them to enforce and implement central decisions. We took consolidated statehood for granted, implicitly assuming a full monopoly over the means of violence and the capacity to implement and enforce rules. However, as the literature on weak, fragile and even failed states reminds us, the institutional capacity of states should be treated as a variable rather than as a constant (see e.g. Rotberg 2003, 2004; Schneckener 2004).

“Limited statehood” as a major obstacle to compliance is not confined to fragile or failed states (see Chapter 4; also Risse 2011b). Many states contain political and administrative institutions which are too weak to enforce the law on the whole territory, in some issue-areas (such as human rights), and/or with

regard to particular parts of the population. Related to this, many states of the Global South do not hold a monopoly over the means of violence in parts of their territory.

However, there is no straightforward relationship between state strength and consolidated statehood, on the one hand, and compliance with human rights norms, on the other. As a result, we need to combine the two institutional characteristics – state strength and regime type (see Figure 4.2). Different social mechanisms should be expected to facilitate the move from commitment to compliance. In the cases of consolidated autocratic or democratic regimes, non-compliance results primarily from state actors being unwilling to implement human rights norms. Therefore, three of the four social mechanisms discussed above – coercion/legal enforcement, positive and negative incentives, and persuasion/shaming – are expected to be applicable. In the case of consolidated democracies, legal enforcement as well as “naming and shaming” by transnational advocacy networks should be particularly effective. With regard to consolidated autocratic regimes, the original assumptions of the spiral model should hold and all three mechanisms might work in principle, even though persuasion could prove to be ineffective.

If limited statehood and lack of political and administrative capacity to enforce decisions is the main problem, however, “involuntary non-compliance” should result. Therefore, capacity-building as prescribed by the “management school” of compliance research (see above) should be the primary mechanism to move a state from commitment to compliance. This is particularly relevant for democratic regimes with weak institutions and low administrative capacity which is characteristic for many new democracies in the Global South. In the case of autocratic regimes in weak states, however, it is very hard to specify the root cause of compliance problems. Capacity-building as such, for example, could result in making a repressive regime more effective in carrying out human rights violations. Coercion, incentivizing and persuasion mechanisms, however, might be equally irrelevant if the regime is unable to enforce the law. In this case, one should think of functional equivalents to consolidated statehood as a remedy for the compliance problems in autocratic regimes within weak states.

(3) *Centralized vs. decentralized rule implementation*

Our third scope condition has to do with the degree of centralized or decentralized rule implementation in a given situation and with regard to any targeted actor (e.g. states, rebel groups or corporations). The original spiral model in PoHR treated states as unitary actors with regard to compliance. However, the degree to which decision making is centralized with regard to norm compliance makes a difference (Lutz and Sikkink 2000). Simmons, for example, argues that there has been greater compliance with the norm against the death

penalty in countries that have abolished it because the sanction associated with the norm is centrally carried out by public authorities, and thus easy to monitor (Simmons 2009: 200). Compliance is also more likely if those actors who are committed to human rights norms are also those who comply with them directly. However, compliance is more difficult to achieve if it has to result from collaborative or conflict-ridden negotiations between different decentralized actors. In other words, a situation of decentralized rule implementation means that rule addressees (those who commit to human rights) are not exclusively the rule targets who have to comply (see Börzel 2002).

Take the case of torture: central state authorities (in consolidated states, see below) usually have direct control over their military via a clear line of command and should, therefore, be able to enforce the prohibition against torture committed by members of their armed forces. In the case of the United States and the George W. Bush administration, for example, it was not the military per se that undermined the taboo against torture, but rather officials at the highest levels of the Executive Branch of government (see Chapter 8). At the same time, and given the competencies of communal authorities in most countries, central governments have much less control over the local police forces. As a result, we would expect that it is more difficult to implement the prohibition against torture with regard to the police as compared to the military (e.g. the case of Turkey, Chapter 2, also Liese 2006).

Things become more complex if states, for example, commit to international human rights norms, but firms or even private citizens are the rule targets that are expected to comply (see Chapter 14 on gender rights). In such cases, the implementation process can be extremely decentralized, since states are legally responsible for compliance, but private citizens have to change their behavior, which often includes abandoning or transforming long-standing cultural practices. The problem is exacerbated, of course, in cases where such behavioral change is being encouraged in areas of limited statehood (see above).

Organizational centralization or decentralization also affects the behavior of nonstate actors. For example, as Hyeran Jo and Katherine Bryant show in Chapter 13, rebel groups with more hierarchical organizational structures are more likely to comply with humanitarian norms than loosely organized groups. As to business firms, compliance with regard to things such as social rights should become more problematic, the longer the supply chain (see Chapter 12).

With regard to this particular scope condition, as long as rule implementation is highly centralized, it should not matter much whether coercion, incentives or persuasion is used in efforts to induce compliance. However, since involuntary non-compliance is the main problem in highly decentralized “implementation systems,” capacity-building constitutes a major remedy for tackling the problem in such cases.

(4) *Material vulnerability*

Our two final scope conditions affecting the movement from commitment to compliance relate to any given rule target's vulnerability to external (as well as to internal domestic) pressure. It makes a difference, of course, whether China, Russia or the United States is accused of human rights violations as compared to the Philippines, Guatemala or Kenya (on the latter see Jetschke 1999; Ropp and Sikkink 1999; Schmitz 1999; on the United States and China see Chapters 8 and 9). The same should hold true for non-state actors commanding different types and levels of resources.

On average, rule targets commanding powerful economic and/or military resources are expected to be less vulnerable to external pressures to comply with human rights norms than are materially weak targets. This "realist" assumption is straightforward and does not require further specification. Everything else being equal, great powers can "fight off" external network mobilization more easily than can weak states. The same should hold true for non-state actors such as companies. If a Small or Medium-Sized Enterprise (SME) is subjected to a consumer boycott because of its violations of social rights in some country where it invests, the costs incurred are much higher than, say, in the case of a big oil company being subjected to a similar campaign.

Note that we do not assume that materially powerful actors are immune from external pressures or transnational mobilization. We only expect that mechanisms based on material coercion and/or negative incentives such as sanctions are less likely to yield results when used against materially powerful actors than against weak ones. Even if China or Russia were to be exposed to material sanctions by Western states or the international community as a whole, such sanctions alone would probably not be able to move their governments from commitment to compliance. Materially powerful actors are by definition less vulnerable to external economic or military pressures than are weak actors. However, as the case of Tunisia shows (see Chapter 10), even materially weak states can reduce their vulnerability toward external pressure by pursuing a strategy of economic inclusion so as to silence domestic opposition.

(5) *Social vulnerability*

A more interesting proposition concerns a target's vulnerability to social pressures. As we argued in PoHR, the more states and other actors care about their social reputation and thus want to be members of the international community "in good standing," the more vulnerable they are to external naming and shaming and, thus, to social mechanisms relying on the logics of arguing and of appropriateness. Social vulnerability refers to a particular actor's desire to be an accepted member of a social group or a particular community. Constructivists argue that a state's identity may influence its vulnerability to social pressure.

States with insecure identities or those that aspire to improve their standing in the international community may be more vulnerable to pressures (Gurowitz 1999). Sociological institutionalists would argue that the logic of appropriateness comes into play here, while rational choice scholars refer to “reputational concerns.” In any event, the application of social pressure works, because actors care about their standing in a social group. And the more the relevant community cares about human rights, the more the target is vulnerable to external (and internal) pressures to comply with these norms.

In the case of states, these concerns are mostly about international legitimacy (see Hurd 1999; see e.g. the case of Morocco’s king, Chapter 10). With regard to non-state actors, things are a bit more complex. As Jo and Bryant show in Chapter 13, rebel groups that are likely to win civil wars and to take over the national government tend to start complying with international humanitarian law precisely because of an expected gain in international legitimacy. In the case of transnational companies, particularly those with a brand name to defend, social vulnerability is often intimately associated with material vulnerability. In the case of Shell and its rights violations in Nigeria, for example, transnational advocacy networks were able to organize consumer boycotts which then resulted in a serious loss of revenue for the company (Chapter 12; see also Chapter 11). In this case, consumers cared about human rights which made even a materially powerful corporation vulnerable to external pressures.

However, we can neither assume that any particular norm target is socially vulnerable, nor that the application of social pressure (e.g. naming and shaming) will have a favorable and unidirectional impact. This is where we have to correct the original spiral model. Some rule targets command powerful social resources which allow them to fight off external pressures. “Soft power,” as Joseph Nye put it (Nye 2004), is not the sole domain of the “good guys” in world politics. The Asian values debate demonstrates, for example, that some states command sufficient international legitimacy to establish a counter-discourse to the Western-led human rights arguments (see Chapter 2). This also happened in the West itself, where the George W. Bush administration in the post-9/11 environment was able to establish a counter-discourse against the universal applicability of the prohibition against torture – at least temporarily (see Chapter 8). In other words, human rights are not the only discourse in town – and some actors command enough social legitimacy to be able to establish persuasive counter-narratives which then reduce their social vulnerability.

In sum, our authors evaluate the impact on human rights change of five scope conditions in the empirical chapters that follow. These scope conditions are (1) regime type (democracy vs. autocracy), (2) state capacity (consolidated vs. limited), (3) rule implementation (centralized vs. decentralized), (4) material vulnerability (substantial vs. limited), and (5) social vulnerability (substantial vs. limited). We believe that the existence of these scope conditions not only affects the overall process moving actors from commitment to compliance

directly but also by influencing the effectiveness of the four different social mechanisms described above.

Plan of the book

Part I of the book is devoted to stock-taking. Chapters 2 and 3 evaluate the original spiral model proposed in PoHR from different perspectives. In [Chapter 2](#), Jetschke and Liese review the literature on the spiral model that has referenced and used it over the past decade. They are particularly interested in determining whether the major assumptions of the model and its causal mechanisms are still viewed as valid. [Chapter 3](#) by Simmons builds upon the considerable quantitative work on human rights that has been done over the past decade and evaluates the spiral model from the perspective of large-N statistical analyses. The chapter compares quantitative findings about the ability of international norms to influence domestic politics, social movements, and practices to findings from the earlier qualitative literature.

Part II is devoted to conceptual and methodological issues. Börzel and Risse argue in [Chapter 4](#) that the original PoHR was based on some implicit assumptions that do not fit states containing “areas of limited statehood.” Such areas can be defined as territorial or functional spaces in which national governments do not control the means of violence and/or are incapable of implementing and enforcing central decisions, including those in the area of human rights. If we take limited statehood seriously, we have to re-formulate and re-conceptualize the human rights agenda, both in terms of research and policies.

Dai takes issue in [Chapter 5](#) with the findings of some recent – mostly quantitative – studies of human rights treaties. The authors of these studies claim that, while states increasingly endorse human rights norms, their actual behavior often does not comport with them. To many, this “compliance gap” calls into question the efficacy of international law. Challenging such an inference, Dai argues that the compliance gap, as it is typically depicted and measured in the literature, does not capture and in fact overemphasizes both the magnitude and the significance of the disparity between commitment and compliance.

[Chapter 6](#) by Goodman and Jinks challenges the view developed in PoHR that “all good things go together,” i.e. that the various compliance mechanisms and logics of social action and interaction reinforce each other and that there are no trade-offs between them. Their starting point is the increased attention being devoted in the literature on human rights to discrete mechanisms of social influence. Goodman and Jinks focus primarily on what they call “negative interaction effects,” that is, cases in which the operation of one mechanism of influence (e.g. material inducement) might crowd out the operation of another (e.g. moral suasion). They argue that combining mechanisms in such a way will, under certain conditions, reduce the overall social effect to levels below what any individual mechanism could have achieved on its own.

Part III of our volume revisits the issue of how state actors behave from the time that they ratify human rights treaties to the point at which they actually comply with these new legally-embedded normative structures. Clark relies on quantitative methods in [Chapter 7](#) to evaluate whether human rights treaty ratification followed by international criticism of human rights behavior has any impact on compliance. She uses dynamic panel data analysis to test the effect of states' exposure to UN human rights criticism when they have or have not ratified two major human rights treaties: the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT). Her statistical findings suggest that once a treaty has been ratified, the likelihood rises significantly that additional criticism from the international community will cause a state to improve its human rights performance.

[Chapter 8](#) focuses on US non-compliance with the prohibition against torture and cruel and degrading treatment during the administration of George W. Bush. Sikkink argues that US policy-makers were intensely aware of domestic and international pressures to comply with the norm, and of the possibility of domestic prosecution under US statutes implementing international human rights law. But such awareness did not lead to greater compliance. The US case shows that a country which had already ratified and implemented international treaties on a core human rights norm could nevertheless experience a profound backlash, resulting in the de facto abnegation and "reversal" of these commitments.

The People's Republic of China provides us with another example of a very powerful state which might conceivably be able to "fight off" transnational pressure for human rights compliance. [Chapter 9](#) examines the extent to which the spiral model applies in this case. The Tiananmen Square massacre in 1989 gave rise to a transnational network focused on improving China's human rights situation. International governmental and non-governmental criticism of China's human rights practice continued to be pronounced throughout the two decades that followed. Through a comparison of the impact of the EU and US strategies to influence China's human rights performance, Kinzelbach reaches some interesting conclusions. From her perspective, Beijing's continued non-compliance on core civil and political rights is best explained by a combination of the weakness of domestic change agents attempting to apply pressure "from below" and the absence of sustained pressure from above.

One of the most important recent developments in the human rights field has been the uprisings in the Arab world. PoHR contained a case study on Morocco and Tunisia (Gränzer 1999) – two countries that have followed very different paths during the recent rebellions. In [Chapter 10](#), van Hüllen revisits the two cases in light of recent events. While Morocco remained vulnerable to domestic and external demands and embarked on a cautious process of liberalization, Tunisia was able to shield itself off to outside pressures due to economic

development. When this strategy failed to calm the opposition during the economic crisis, the regime collapsed.

Part IV of the book deals with a major portion of the new agenda in human rights research – the compliance behavior of non-state actors. In [Chapter 11](#), Mwangi, Rieth and Schmitz focus on the UN Global Compact (GC) and related efforts to align economic interests with universally recognized principles. Unlike many skeptics of such efforts to “sign up” corporations to the observance of human rights norms, Mwangi *et al.* find that membership in the GC moves companies towards greater compliance if certain scope conditions are in place. First, the firm has to participate actively in a regional or local GC network where corporate incentives, human rights discourse and capacity-building resources are more highly developed than at the global level. And, second, additional steps must have been taken toward integrating the ten principles into the managerial and strategic culture of a company.

[Chapter 12](#) by Deitelhoff and Wolf also assesses the status of business and human rights in general, and in zones of conflict in particular. The authors argue that the business sector is experiencing a socialization process similar to that specified in the original spiral model of human rights. They further argue that applying the spiral model to business corporations triggers interesting extensions of this model regarding its phases and causal mechanisms. During the socialization process, and under certain conditions, corporations can undergo a transformation from norm consumers to norm entrepreneurs. This transformation occurs not only because of the principled beliefs that these corporations have come to subscribe to but also out of simple cost-benefit calculations with regard to their business models within socially embedded markets.

In [Chapter 13](#) Jo and Bryant deal with rebel groups and warlords whose human rights violations are usually deemed beyond the reach of international law and transnational pressures. Rebel groups in civil wars often commit heinous acts of violence such as killing innocent civilians. However, all rebel groups are not the same. Jo and Bryant argue that reputational concerns and organizational capacity that is adequate to enforce adherence to human rights standards are key conditions for rebel groups to move from commitment to compliance. Additionally, they suggest that rewards and persuasion are the main mechanisms that induce such compliance. By analyzing quantitative data on humanitarian access to conflict zones in civil wars fought between 1991 and 2006, the authors show that some classes of rebel groups with reputational concerns and strong organizational capacity are more likely to grant access to the ICRC than others.

In [Chapter 14](#) Brysk pushes the envelope even further with regard to how we can best explain the compliance behavior of non-state actors. She investigates the conditions under which private individuals can be brought into compliance with international norms related to sexual politics and gender. Private actors such as families, employers and religious communities are increasingly

recognized as potential human rights violators and subject to international campaigns – but not yet to consistent governance. As a constructivist perspective suggests, transnational campaigns against private wrongs (such as violence against women) rely on the use of a combination of the mechanisms of persuasion and capacity-building rather than on coercion and incentives. The chapter analyzes a strikingly similar pattern of norm change through socialization in states and international organizations in the “hard case” of sexual politics, where male elites and social institutions face few incentives or disincentives to change gendered patterns of subjugation.

The concluding chapter by Sikkink and Risse (Chapter 15) revisits the arguments of this introduction, in particular with regard to mechanisms and scope conditions. In addition, the chapter discusses some new developments in the enforcement of human rights norms, namely the emerging international norms of “Responsibility to Protect” (R2P) and of individual criminal responsibility. With regard to the scope conditions discussed above, Sikkink and Risse argue that they can be grouped together for analytical purposes in another alternative way. While regime type and social/material vulnerability concern the *willingness* of actors to move from commitment to compliance, degrees of (limited) statehood and of the centralization of compliance decisions affect actors’ *ability* to comply. The chapter concludes by discussing some policy implications of this volume.