Colloquy

DO STATES SOCIALIZE?

JOSÉ E. ALVAREZ†

Professors Ryan Goodman and Derek Jinks's "How to Influence States: Socialization and International Human Rights Law"[1] achieves the rare trifecta of solid academic scholarship. Their work is first, exceedingly ambitious: they seek to provide a new explanation for why states behave that goes beyond carrots and sticks. Second, in the tradition of some of the best contemporary work in public international law, it brings interdisciplinary insights into a field still dominated by an emphasis on black letter doctrine. Goodman and Jinks accomplish this integration through a sophisticated understanding of the various nonlegal disciplines sought to be engaged, particularly sociology.[2] Third, their work is situated in a burgeoning field of empirically oriented scholarship on compliance that aspires for both better description and better prescription. Goodman and Jinks push the envelope of compliance studies by going beyond the best work in the field, that of Dean Harold Koh and Professors Abram and Antonia Chayes, to elicit a new set of inquiries. At the same time, Goodman and Jinks's work is engaged. It is not theory for the sake of theory. The authors seek to influence policymakers—such as those who conclude and implement human rights treaties—by addressing issues of direct policy relevance, and they obviously have a policy agenda themselves, namely, to use

    1.   Ryan Goodman & Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 DUKE L.J. 621 (2004).

    2.   Even when it comes to describing the existing mechanisms for compliance, which they acknowledge have been developed by other scholars, Goodman and Jinks recognize the complexity of the dynamic processes at work. *See, e.g.*, Ryan Goodman & Derek Jinks, *Measuring the Effects of Human Rights Treaties*, 14 EUR. J. INT'L L. 171, 173–81 (2003) (describing the many dependent and independent variables that must be taken into account when empirically analyzing the effects of human rights treaties and explaining the complexities that a theoretical model ought to take into account). Their Table I contains a refreshingly supple description of tools of influence that are most often described in more mechanistic terms. Goodman & Jinks, *supra* note 1, at 655 tbl.1.

international law to help to reduce human rights violations.[3] They are well aware that the lives of human beings are affected, both positively and negatively, by the phenomena they are both describing and hoping to affect.

Their article is synoptic, perhaps necessarily so for a piece that aspires to do so much. But the high level of generality at which the article is pitched prompts a rich set of inquiries.

Goodman and Jinks's reliance on socialization as a theory of compliance needs case studies to provide context and further nuance. The bare bones of their theory need to be clothed. Some texture might be provided by historical accounts of the growth of particular human rights regimes. Professor Brian Simpson's work on the history and genesis of the European Convention of Human Rights, based on exhaustive research of recently opened archives within Great Britain, serves as the basis for this critique.[4] Simpson has recently attempted to explain the British approach to negotiating and ultimately ratifying the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention). Simpson's account of why states conclude human rights treaties starts from a very different premise than does Goodman and Jinks's, and his historical approach provides a rich complement to the empiricism of political scientists like Professor Andrew Moravcsik.[5]

Simpson's conclusions highlight both the potential utility, as well as the limitations, of Goodman and Jinks's concept of socialization. For Simpson, general accounts that purport to explain why states behave as they do are only of value when they are based on case studies grounded in the actions of particular state actors within particular states, as with respect to their reactions to the prospect of adhering to certain treaties.

Simpson tries to explain why a liberal state that had just won a war against a genocidal regime nonetheless nearly voted against the draft Genocide Convention when that proposed treaty was adopted

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3. *See* Goodman & Jinks, *supra* note 1, at 629 ("The question whether international law can promote human rights norms may be recast, in an important sense, as how human rights regimes can best harness the mechanisms of social influence.").

4. A.W. Brian Simpson, *Britain and the Genocide Convention*, 2002 BRIT. Y.B. INT'L L. 5.

5. Both Simpson and Moravcsik have dealt with the origins of the European system of human rights. *See generally* A.W. BRIAN SIMPSON, HUMAN RIGHTS AND THE END OF EMPIRE: BRITAIN AND THE GENESIS OF THE EUROPEAN CONVENTION (2001); Andrew Moravcsik, *The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe*, 54 INT'L ORG. 217 (2000).

by the UN General Assembly in 1948—and why it took that state over twenty years to ratify that treaty (which it finally did in April of 1970).[6] Simpson sets out to explain, in the context of a state that was clearly not attempting to protect its future options to commit genocide, what Goodman and Jinks might describe as a two decades-long failure of socialization. But Simpson's account also provides some support for those inclined to see the glass as half full. His is also a story of why socialization ultimately works. After all, British government officials were eventually induced to ratify a treaty that many of them had initially regarded as a useless tool against evil regimes bent on genocide that could present bureaucratic nightmares for law-abiding regimes like their own.

In many ways, Simpson's case study provides solid, historically grounded support for Goodman and Jinks's threefold division among compliance mechanisms, as well as for their favored third method: acculturation. Simpson describes distinct and sometimes colorful personalities within rival British government offices (the Home Office and the Foreign Office), each attempting to influence overall British treaty policy and each succeeding or retreating at critical moments of decision. Although Simpson focuses on each office's distinct bureaucratic preoccupations—as well as those of the individuals within them—much of his story can be re-told through the lens of the three mechanisms to induce state compliance delineated by Goodman and Jinks. Advocates of persuasion could see in Simpson's tale the impact of interest group politics within a polity, including the role of Jewish organizations and the preoccupations of certain lawyers in the Home Office sensitive to particular constituencies. Observers receptive to coercive models of compliance, especially realists like Professor John Mearsheimer, would see, on the contrary, a cautionary tale that shows the fundamental irrelevance of human rights treaties. After all, not only did it take Britain two decades to ratify this treaty but, as Simpson explains, since ratification in 1970, the only extradition request that has been presented to the British government was in the case of former Chilean dictator Augusto Pinochet and, in that instance, the genocide charges were eventually dropped.[7]

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6. Simpson, *supra* note 4, at 62.
7. Regina v. Bow St. Metro. Stipendiary Magistrate, [2000] 1 A.C. 147, 148 (1999).

Goodman and Jinks presumably would put Simpson's case study to different use. They would focus, instead, on the status-oriented concerns that ultimately drove the British to approve the Genocide Convention when it was first proposed in 1948 and, ultimately, to ratify it many years later. As Simpson tells the story, British officials ultimately declined to dissent when the Genocide Convention was first proposed (even though the draft treaty was, in the view of many of its lawyers, severely flawed) because those responsible for casting the vote did not want to be seen as the sole dissenters. With respect to ratification years later, proponents within the British Foreign Office stressed the need to avoid embarrassing the nation. Among the reasons cited for ratifying the treaty—which was by then widely in force—was the fear that a continued failure would make the state appear insensitive to the horrors of the Holocaust and expose its government to charges of anti-Semitism. The British government officials who finally prevailed argued that ratification of the Genocide Convention was necessary for Britain's "international prestige" and that Britain could no longer afford to be counted among the last holdouts, along with pariahs such as apartheid-era South Africa. Socialization, it can plausibly be argued, provides a key rationale for Britain's stance vis-à-vis the Genocide Convention.

At the same time, Simpson's case study highlights matters that are not addressed by Goodman and Jinks but that would be familiar to anyone who has served in government. The saga of Britain and the Genocide Convention, rife with interdepartmental turf battles, is rich in Weberian insights. Simpson highlights, in a way that Goodman and Jinks do not, the role and significance of bureaucracy as an independent factor. He shows how distinct government offices are captured by certain interests, exhibit path-dependent behavior, and prefer the status quo—how, for example, the British Home Office predictably responds, as it always has, to parliamentary concerns, while the Foreign Office worries more about the potential impact on its network of extradition treaties and the country's relative standing abroad. Simpson's history demonstrates how government bureaucracies work and how those willing to engage in delay can succeed for a very long time through familiar paper shuffling tactics.

In addition, Simpson highlights the force and relevance of distinct personalities. His narrative showcases the role and stamina of individuals, from low-level lawyers to political leaders, each with varying abilities to persuade others to adopt his point of view. Simpson's cast of characters ranges from a persistent Jewish member

of Parliament (who obstinately refuses to let the convention die) to a young Philip Allott, long before he became a prominent international law academic (who is instrumental in discouraging his country from filing proposed treaty reservations). Ultimately, ratification requires a reversal of policy, brought on by a new Labour government, to move more conservative bureaucrats to action.

Finally, classic lawyerly concerns play a prominent role in Simpson's history. The objections raised by government lawyers, both at the time of the convention's initial drafting and whenever ratification was subsequently seriously contemplated, presented a serious obstacle for advocates of the convention. In 1948, these legal concerns focused on the possibility that the convention would extend to attacks directed at cultural icons (namely, cultural genocide), as well as uncertainty about whether the treaty would criminalize, retroactively, acts committed by Britain during the colonial era. Later, the legal impediments included the burden of drafting detailed implementing legislation and the need to establish a process for handling anticipated cases in which the British government would face a request for extradition from a state that was extracting a political vendetta and not advancing a good faith claim of genocide.[8]

The factors that Simpson's history emphasizes do not play a role in Goodman and Jinks's account. Yet bureaucratic politics, personal leadership (or lack thereof), and positive law would all appear to be part of the necessary description of how and why Britain hesitated but ultimately joined this significant human rights regime. Presumably, all three factors will continue to play a role in the future

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8.   Interestingly, Simpson's account does not suggest that one of the obstacles to Britain's participation in the genocide regime was the "vagueness" of the underlying legal rules. *Cf.* Goodman & Jinks, *supra* note 1, at 676 (suggesting that one of the characteristics of human rights treaties is that they are notoriously vague compared with other legal domains). On the contrary, it was the relative precision of the Genocide Convention—its requirement that extradition requests not be denied—that was regarded as a principal obstacle. On reflection, human rights treaties are not necessarily more imprecise than any other treaties. Many of the requirements of the International Covenant on Civil and Political Rights, for example, are comparable to or even more, rather than less, precise than the general nondiscrimination norm that is the basis of the World Trade Organization (WTO) regime and would appear to share many of the enforcement difficulties of the typical human rights regime. (Not all trade rights are self-enforcing and many—from non-discrimination to respect for intellectual property rights— are systematically under-enforced; as with human rights, not all countries are able to rely on reciprocity as a reliable enforcement tool.) Goodman and Jinks's larger premise—that human rights regimes share unique characteristics—is worth re-examining. Other treaty regimes, from those involving international economic law to those trying to solve problems of the global commons, may need to rely on socialization techniques as much as human rights treaties.

success of the Genocide Convention in Britain, as in other treaty parties. And all three factors should be considered in prescriptions for how to improve compliance with this and other human rights regimes. Indeed, Goodman and Jinks's own account of what matters for acculturation implicitly accepts a role for such factors.

Consider, for example, their discussion of the impact of organizational membership decisions.[9] Although it is plausible (and consistent with Goodman and Jinks's approach) to consider the threat of expulsion from certain international organizations or denial of credentials for government representatives as relevant concerns in securing compliance with human rights norms, such decisions are not made in a vacuum without regard to bureaucracies, personalities, or positive law. Those familiar with prior attempts to impose such sanctions would highlight the role of such bureaucratic factors as the rules of procedure within organizations contemplating such measures, their prior institutional practices regarding participation rights, and their voting rules.[10] It is also likely that many of these efforts failed or succeeded because of the particular personalities involved—such as who controlled the proceedings, applied the rules of procedure, or was in a position to "perceive consensus" by the whole. And positive law appears likely to have played a prominent role as well. Such attempts have been regarded as more or less legitimate depending on whether the organization's charter expressly anticipated expulsion or suspension of membership, or whether the organization's legal counsel opined that in a particular factual context, the expulsion of a member or denial of its government's credentials was consistent with institutional practice. Certainly the history of such attempts suggests that such measures are usually not pursued (except in notorious outlier cases such as South Africa during apartheid) when they are at odds with positive law and therefore regarded by others as *ultra vires*.[11]

The law has also structured the type of membership sanctions that have been undertaken. When Serbia and Montenegro sought to "succeed" to the UN seat of the former Yugoslavia (as it was quite

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9. Goodman & Jinks, *supra* note 1, at 646–55.

10. *See, e.g.*, FREDERIC L. KIRGIS, JR., INTERNATIONAL ORGANIZATIONS IN THEIR LEGAL SETTING (2d. ed. 1993), at 585–616 (discussing the impact of such factors on decisions within the UN General Assembly and in UN Specialized Agencies to attempt various types of membership sanctions with respect to Israel or apartheid-era South Africa).

11. *Id.*

plausibly entitled to do under existing law of state succession), human rights concerns prevented this outcome. At the same time, however, the organization did not want to deviate from its institutional practices or the relevant law on state succession. The result was an awkward act of creative lawyering, by which Serbia and Montenegro's UN representatives were denied the right to vote in the UN General Assembly, and ultimately to participate in the Security Council, but were not otherwise denied UN participation rights.[12] As this suggests, proponents of socialization need to consider the roles of law and of lawyers—both within institutional actors such as the UN as well as within nongovernmental organizations (NGOs) and states. While not all states are likely to take as legalistic an approach as did Britain with respect to the Genocide Convention, the extent to which such foreign policy decisions involve lawyers is an important variable in studies of compliance.[13]

Simpson's case study raises more general questions about Goodman and Jinks's inquiry into whether and how states socialize. The rest of this Response addresses other gaps in their framework suggested by Simpson's account.

Time Lag If it took twenty years, as noted, for acculturation to work on a liberal law-abiding state such as Britain, the fact that states may be ultimately socialized into accepting human rights may not provide much solace for policy makers interested in the here and now. Goodman and Jinks say little about the time it may take for

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12.   S.C. Res. 757, U.N. SCOR, 47th Sess., 3082d mtg., at 13, U.N. Doc. S/RES/757 (1992); G.A. Res. 47/1, U.N. GAOR, 47th Sess., 7th plen. mtg., at 12, U.N. Doc. A/RES/47/1 (1992). Even this instance, a rare case in which membership sanctions not explicitly authorized by treaty were imposed, involved considerable activity by UN lawyers to confine the scope of the measures sought to be imposed and limit the damage of the legal precedent set by this arguably "ultra vires" action. *See Consequences for Purposes of membership in the United Nations of the Disintegration of a Member-State—General Assembly Resolution 47/1 and Practical Consequences of its Adoption*, 1992 U.N. Jurid. Yb. 428, UN Doc. A/47/485 (providing the legal opinion of the Secretariat of the United Nations on how the breakup of Yugoslavia affects the UN membership of the successors of that state).

13.   Simpson's account also implies that those interested in compliance need to consider the role and influence of lawyers, and not only whether, for example, the state involved is a "liberal" or "democratic" state. The extent to which a state "legalizes" its relevant foreign policy decisions appears to have an impact on a state's decision to ratify a treaty and presumably has an impact on whether steps are taken to implement a treaty upon ratification. Simpson's case study suggests that, at least in some cases, democratic states that take a legalistic approach to such questions might face *greater* impediments to expeditious ratification, in contrast to the assumptions made by some liberal theorists. *See generally* Simpson, *supra* note 4.

socialization to work or, depending on its causal gateways, whether there are concrete ways to expedite the process. Few are likely to be attracted to prescriptions based on acculturation if the time needed to achieve compliance exceeds the life span of those making them.

Missing Dynamics Goodman and Jinks acknowledge that in the real world their three models of compliance interrelate or link up in dynamic fashion. This raises a question, however, about the usefulness of their ideal types.[14] Although their threefold mechanisms may be analytically useful conceptualizations of how the process of compliance works, these ideal types may be considerably less useful in describing real-world events—where too many factors and personalities come into play and observers are left with a confusing muddle in which everything matters, at least a little bit.[15] For the same reasons, their ideal types may not be particularly useful to designers of human rights regimes or compliance mechanisms. As Simpson's account confirms, the real-world practice of states is messy. Worse still, at least for trying to model states' behavior, units within states, as well as states acting as collectives, engage in dynamic learning. The problems raised by dynamic learning—where actors rarely if ever find themselves in the same position twice and constantly evolve their own

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14. As Professors Richard Lempert and Joseph Sanders acknowledged long ago, Weberian ideal types are conceptual abstractions from reality that are sufficiently general that they cannot capture the whole of any actual phenomenon. An ideal type is a useful analytical yardstick for a generalized statement precisely because it is "a stylized construct that represents the perfect, and thus unreal, example—it is not the average case; it is the pure one." RICHARD LEMPERT & JOSEPH SANDERS, AN INVITATION TO LAW AND SOCIAL SCIENCE 3 (1986). What makes ideal types so useful simultaneously limits their relevance to describing real historical events—such as Britain's consideration of the Genocide Convention at particular moments in time.

15. Thus, one of the most thorough efforts to gauge the level of compliance with respect to multilateral environmental treaties, by Professors Harold K. Jacobson and Edith B. Weiss, concluded that the level of states' compliance is affected by the characteristics of the activity involved (the number of actors involved, the effect of economic incentives, the role of multilateral corporations in the activity, and the concentration of activity in major countries), the characteristics of the accord (the perceived equity of the obligations, their precision, provisions for obtaining scientific and technical advice, reporting requirements, other forms of monitoring, secretariat, incentives and sanctions), the international environment (whether the treaty was the subject of a major international conference or of worldwide media attention, the presence of international non-governmental organizations), as well as factors involving the country. Harold K. Jacobson & Edith Brown Weiss, *Assessing the Record and Designing Strategies to Engage Countries*, in ENGAGING COUNTRIES: STRENGTHENING COMPLIANCE WITH INTERNATIONAL ENVIRONMENTAL ACCORDS 511, 511–542 (Edith Brown Weiss & Harold K. Jacobson eds., 1998). The very thoroughness of this study—the comprehensiveness of its list of compliance factors—poses a challenge for those seeking to draw practicable prescriptions from it.

reactions in response to others—get a nod in Goodman and Jinks's account but nothing more.[16]

Missing Actors   For an account that focuses on socialization, Goodman and Jinks's approach is oddly depopulated. They have little to say about the actual people who are supposed to be engaged in "mimicry," worried about being shamed, or seeking to achieve substantial affective returns ("cognitive comfort").[17] Their view of acculturation relies on what some might see as pop psychology. Their actors are driven to conform, to act consistently with their identity and social roles, and to enjoy the psychological benefits of group norms and expectations. These actors are propelled by social pressures and back-patting. But if this is pop psychology, it is pop psychology without people. Although acculturation relies on "target actors" that presumably include everyone from government bureaucrats to the heads of NGOs, the high level of generality with which all of them are described make them as opaque as the black billiard balls that realists call "states."

In common parlance, states (or "organizations" in the abstract) do not "socialize"; people do. Even assuming that Goodman and Jinks are right—that isomorphic tendencies across common organizational structures exist, including among states, and that somehow these tendencies manifest themselves through forms of collective action not dependent on the conscious actions of individuals—in the end, socialization requires *someone* to act. Surely, if the object is to determine whether individuals (as opposed to the abstractions for which they work) socialize, factors such as who the people within these organizations are, the characteristics of the bureaucracies in which these actors perform, and these individuals' connections to relevant epistemic communities elsewhere matter a great deal.

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16. Compare, in this respect, the work of those who study the "interactional processes" of managerial environmental treaty regimes. Such regimes would also appear to share some of the enforcement challenges faced by human rights regimes and also appear to rely on, at least in part, socialization compliance techniques. *See, e.g.*, Jutta Brunnée, *COPing with Consent: Law-Making Under Multilateral Environmental Agreements*, 15 LEIDEN J. INT'L L. 1, 39 (2002) (noting that "states may be most inclined towards less formal procedures when patterns of practice and shared understandings have solidified" and that "interactive processes . . . take shape gradually" to increase compliance).

17. *Id*. at 645.

Persuasion Matters   Simpson's case study also raises doubts about the extent to which relevant government actors ever act without some "active assessment of the merits of a belief"[18]—what Goodman and Jinks call "persuasion." Goodman and Jinks's conception of acculturation emphasizes the need to conform without thought, through tacit processes not involving an assessment of the content of the message. It assumes that target actors are unthinking mimics and that acculturation occurs for its own sake, not because of an assessment of the merits of doing something but because of the social relation between the target audience and some group.[19] Goodman and Jinks presume that sometimes states will decide to stop torturing people or sign the Genocide Convention because everyone else is doing it; that is, not because of a "second-order" calculation of the specific costs and benefits of a failure to conform but because conforming and belonging themselves provide cognitive comfort. They presume that states sometimes act like trendy teenagers unthinkingly following the latest fad. But for legalistic societies and for all but the most routine decisions, my suspicion is that something closer to what they call "persuasion" (or "coercion") is necessary. If Simpson's account is correct, even with respect to largely symbolic acts like ratifying the Genocide Convention, government officials stress the very type of specific costs and benefits that Goodman and Jinks imply have "second-order" significance. I suspect such calculation of benefits is all the more true for decisions subject to sharply defined short- and long-term costs: like a commitment to prevent torture or cruel treatment in a state's prisons, even though this will require considerable adjustment of police training, the establishment of independent ombudsmen, adjustment of national priorities, and much else.

And What About Effectiveness?   As Simpson's case study suggests as well, many occasions of isomorphism may be purely symbolic, revealing little about actual compliance with human rights by states (or by other actors such as multinational corporations). While one might agree with Goodman and Jinks that in some cases states, as members of world society, follow "global scripts,"[20] the authors fail to articulate the conditions that determine when or if

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18.   Goodman & Jinks, *supra* note 1, at 642–43.

19.   *Id.* at 643.

20.   *Id.* at 652–53.

following a global script amounts to something more. That states socialize fails to give us answers to the questions that presumably inspired Goodman and Jinks's theory of acculturation. (Indeed, the initial draft of their article asked at the outset a set of questions that their final version purports to answer: namely, whether international law can help to substantially reduce human rights violations, whether such regimes need to include enforcement mechanisms to be effective, or whether, on the contrary, abstract consideration of legitimacy and shame can induce governments not to oppress their citizens.)

But the final version of Goodman and Jinks's article does not ultimately reveal much about whether the legal manifestations of acculturation—such as human rights treaties—actually reduce human rights violations. They do not explain when or why a state moves from following a global script to taking it seriously: how ratification changes to implementation and ultimately to full compliance and effectiveness.[21] If acculturation (or any other general compliance theory) is to answer such questions, it needs to address, with a great deal more precision, the structural, cultural, or other impediments that prevent states from getting to these latter steps. Acculturation theory needs to provide a more satisfying explanation than that effectiveness depends on "political will." Without attention to such details—the strength of narrower or more tightly focused work on compliance such as Dean Koh's emphasis on transnational litigation as encouraging the internalization of norms[22]—acculturation appears to be an elegant potential explanation for why states ratify human rights treaties, particularly if they belong to organizations where such ratification is expected. It does not say much, however, about why a state would go beyond such symbolic acts to actually prevent its agents or others within its jurisdiction from, for example, engaging in forced disappearances. For the same reasons, a compliance approach that does not concretely address implementation or effectiveness issues is less likely to be able to distinguish mere coordination games (where acculturation without persuasion or coercion might most plausibly occur) from cases involving something closer to prisoners'

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21. On the distinction between implementation, compliance, and effectiveness, see generally Jacobson & Weiss, *supra* note 15.

22. Harold Hongju Koh, *Why Do Nations Obey International Law?*, 106 YALE L.J. 2599, 2649 (1997) (book review).

dilemmas (in which the temptation to cheat may require forms of persuasion or coercion).[23]

Do States Think They Are Socializing? Simpson's case study raises a question about how Goodman and Jinks characterize acculturation. I do not believe, based on Simpson's account, that the British government officials involved would have described what they were doing as mimicry or any other form of social capitulation. Their own self-understanding, as well as how I believe they would describe their rationales to others, would emphasize other factors. Most would probably explain their actions in terms of advancing the interests of Britain or of its people, and I suspect that many other government actors would explain to themselves and to their constituencies their adherence to other human rights regimes in comparable terms. If Goodman and Jinks are describing processes that are hidden from the actors themselves or only become apparent from a distance, they need to provide a better explanation of why unconscious socialization is likely to occur (or is likely to persist even after scholars point out the phenomenon). If, on the other hand, their account of socialization presumes that in some cases government actors are deceiving themselves (or purposely lying to relevant constituencies), it would be helpful to examine why. (Perhaps because an explanation based on rational costs and benefits is less likely to be politically controversial than a decision presented as an act of mimicry?) Explaining the self-understanding of relevant government officials is important for three

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23. Goodman and Jinks also need to say more about how their concept of socialization relates to or differs from the work of political scientists working on comparable terrain. *See, e.g.*, AUDIE KLOTZ, NORMS IN INTERNATIONAL RELATIONS: THE STRUGGLE AGAINST APARTHEID 29–33 (1995) (describing states' concern for reputation); Jeffrey T. Checkel, *The Constructivist Turn in International Relations Theory*, 50 WORLD POLITICS 324, 344–45 (1998), (book review) (describing "social learning" as a process whereby actors acquire new interests and preferences through interaction with a broader institutional context of norms or discursive structures in the absence of obvious material incentives); Thomas Risse & Kathryn Sikkink, *The Socialization of International Human Rights Norms into Domestic Practice: Introduction*, *in* THE POWER OF PRINCIPLES 1, 11–12 (Thomas Risse et al. eds., 1999) (describing the socialization of norms through dialogue, communication, and argumentation); Alexander Wendt, *Constructing International Politics*, 20 INT'L SECURITY 71, 73 (1995) (distinguishing compliance based on coercion, cost-benefit analysis, and determinations that the norm is "legitimate," and suggesting that only in the latter instance are actors' identities "constructed" by the norms). While these other scholars would apparently agree with Goodman and Jinks that states indeed "socialize," it would appear that there is some dispute about how this phenomenon takes place: through norm internalization, learning, concern for status, or as the product of discourse. The subtle distinctions between these accounts of socialization may suggest different prescriptions.

reasons: to achieve accurate description, to avoid prescriptive risks, and to avoid paradoxical contradictions. The first goal is one that Goodman and Jinks share, and not much else need be said: accurate description is what, after all, they are hoping to achieve.

The risks resulting from Goodman and Jinks's prescriptions need more explication. Professor Michael Reisman posits that in the post-9/11 era the West now faces a clash of civilizations. The West's insistence on conformity to western views of core human rights values—human dignity, respect for separation of church and state, respect for sexual autonomy and so on—is perceived by those in the Islamic world as a threat to their own core values.[24] These perceptions have a solid basis in fact. Since the end of the Cold War, global scripts have increasingly reflected the West's long-standing views of human rights, along with their limitations. As many have noted, prevailing views of human rights, at least as institutionalized in global institutions, favor the West's priorities in crucial respects.[25] Civil and political rights receive more attention (and the greater part of enforcement efforts) than the economic, social, and cultural rights that are favored by many developing countries (or at least have been in the past). The West's international financial institutions (such as the World Bank and the International Monetary Fund (IMF)) and regional banks (like the European Development Bank) take an approach to the rule of law and human and social values that presumes certain familiar roles of government vis-à-vis the market, values privatization and entrepreneurs, and identifies property rights (and even free trade) with individual freedom. Even organizations with universal membership, such as the UN, and their officials, like Secretary General Kofi Annan, increasingly identify respect for human rights with forms of democratic governance long favored by the West.

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24. W. Michael Reisman, *Aftershocks: Reflections on the Implications of September 11*, 6 YALE HUM. RTS. & DEV L.J. 81, 83–84 (2003).

25. *See, e.g.*, Sundhya Pahuja, *'This is the World: Have Faith'*, 15 EUR. J. INT'L L. 381, 382–90 (2004) (book review) (questioning whether the growing convergence of accepted human rights norms can ever be anything other than imperialistic). *But see* Amitav Acharya, *How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism*, 58 INT'L ORG. 239 (2004) (arguing that local actors do not passively act out a universal moral script but selectively borrow and adapt transnational norms in accordance with pre-constructed local normative beliefs and practices).

While these institutions' achievement in getting most states to don Thomas Friedman's "Golden Straightjacket"[26] might suggest that the war to secure global agreement on universally recognized human rights scripts has been won, Reisman suggests that despite the enormous stakes, the West's victory is not assured.[27] An academic theory that stresses that states are driven to *conform* with human rights may exacerbate rather than lessen the charge that Western regimes and institutions are vehicles for neocolonialism or the imposition of the hegemonic powers' "soft power."[28] For this reason, acculturation as presently described may not in the end advance Goodman and Jinks's ultimate goals as much as they would like. It is not at all clear that the best route to getting state actors to be more fully and genuinely engaged with human rights regimes lies through an implicit affront to their sovereign pride and autonomy; that is, through mechanisms for compliance based on the premise that states act or should act like unthinking teenagers socially opting for the latest fad.

Finally, there is a fundamental paradox in suggesting that the essential element of compliance with human rights—including the right to autonomous decision-making as individuals in a democratic society—is the pressure to assimilate. Once society achieves a certain minimum core of rights protection—such that persons' rights to life, health, shelter, and core respect for human dignity are respected—the goal of the human rights movement has been to stimulate and enhance personal autonomy so that people are free *not* to mimic the West or to conform. I worry about the expressive values of a theory of human rights compliance that relies on unthinking conformity as the route to achieving greater personal autonomy and freedom.

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26. *See* THOMAS L. FRIEDMAN, THE LEXUS AND THE OLIVE TREE 101–11 (2000) (discussing the pressure that the Western world has put on non-Western countries to conform to Western economic and political norms).

27. Reisman, *supra* note 24, at 85–86 (discussing the objectives of Al Qaeda as including the establishment of a second Caliphate to revive "the old glory of Islam," and the consequences of such a future: namely the "suspension of the vision of a global community based upon a common conception of human dignity").

28. *See generally* JOSEPH S. NYE, JR., THE PARADOX OF AMERICAN POWER 8–12 (2002) (describing the United States' "soft power").