

Human Rights in International Law

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The organization of ancient societies was based on communalism, so organization and power distribution were not based on law. People were more interested in their own minority or ethnic groups rather than in the whole society. The emergence of states brought about the “rights” and the constituents of rights which eventually developed into the human rights. International human rights laws, which refer to treaties, impose the obligations on governments to act in specific ways or modify certain acts in order to encourage and protect fundamental human rights and promote them at both national and international levels.

The international human rights law is a set of international rules which are established by a treaty or custom. As a result, individuals and groups can expect certain responses from the government or legal bodies. It should be mentioned that these treaties are developed at both international and regional levels.

Human rights are usually referred to as indispensable fundamental rights which every individual is entitled to (ADA, 2010). These rights may exist as natural or legal rights in every court of law at both local and international levels. However, there is still no international court to administer the laws that promote and protect human rights. There are quasi-judicial bodies that exist under some UN treaties such as the Human Rights Committee under the ICCPR to administer these rights. The International Criminal Court (ICC) has jurisdiction over war crimes, genocide and crimes against humanity. In addition, the Inter-American Court of Human Rights and European Court of Human Rights administer these laws. It should also be noted that the enforcement of international human rights is the primary responsibility of a state in order to ensure the realization of human rights of its citizens.

Human rights include the right to life, freedom of speech and expression, freedom from torture, slavery, and forced labor, the right to education and work, the right to equality and nondiscrimination, the right to liberty and security, rights to a free trial and freedom of thought, conscience and religion, freedom of assembly and association, the right to marry, etc.

The adoption of the Universal Declaration of Human Rights (UDHR) on 10 December 1948 by the United Nations General Assembly was drafted as “a common standard for all peoples and nations”. The declaration consists of a preamble and thirty articles which spell out basic political, social, civil, cultural and economic rights that should be enjoyed by all human beings. Nevertheless, the international laws, as stated in the International Bills of Human Rights, define the obligations and duties of states to respect, protect and fulfill human rights (United Nations Centre for Human Rights, 1996). The laws require states to take positive actions in order to facilitate the enjoyment of human rights, protect individuals and groups against human rights abuses and punish human rights violators.

The three main regional human rights instruments which have established human rights are mentioned further.

1. The African Charter on Human and Peoples’ Rights (also known as Banjul Charter) is an international human rights instrument that is used to protect and promote human rights and other basic freedoms in the African continent.
2. The American Convention on Human Rights (also known as Pact of San Jose) is an instrument of international human rights that was signed on 22 November 1969 and came into full force on 18 July 1978 to oversee the protection and promotion of human rights in the American states.

3. European Convention on Human Rights (formally known as the Convention for the Protection of Human Rights and Fundamental Freedoms) is an international treaty for the protection and promotion of fundamental human rights and freedoms in Europe.

Practically, human rights are legally difficult to enforce because of the lack of consensus on the application of certain rights. Actually, this is due to the absence of relevant national legislation or bodies that are empowered to legally enforce the rights (Freeman & Ert, 2004). The UDHR, which is a non-treaty based body, has been complimented by a number of United Nations bodies that are either treat-based or charter-based. However, these bodies receive secretariat support from the Human Rights Council and Treaties Division of the Office of the High Commissioner for Human Rights (OHCNR) under the United Nations.

Charter-based Bodies are the following:

- Universal Periodic Review
- the Human Rights Council
- Human Rights Council Complaint Procedure
- the Commission on Human Rights (replaced by the Human Rights Council)
- Special Procedures for the Human Rights Council

Treaty-based Bodies are the following:

- the committee responsible for the enforced disappearances (CED)
- the Human Rights Committee (CCPR)
- the committee responsible for the rights of persons with disabilities (CRPD)
- the committee responsible for economic, social, and cultural rights (CESCR)
- the committee responsible for migrant workers (CMW)
- the committee responsible for the elimination of racial discrimination (CERD)
- the committee responsible for the protection of rights of children (CRC)
- the committee responsible for the elimination of women discrimination (CEDAW)
- the committee responsible for the fight against torture (CAT)
- the sub-committee responsible for the prevention of torture (SPT).

One of the main challenges encountered in the enforcement of international human rights is the principle of Universal Jurisdiction. This is when countries claim criminal jurisdiction over an individual or group of persons who allegedly committed crime somewhere outside the borders of the prosecuting country, notwithstanding the country of residence, nationality, or any other relationship with the prosecuting country (Cassese, 2005). Besides, human rights organizations need financial backups in order to carry out their activities. It should be mentioned that this issue of funding has restricted these human rights organizations and law enforcement agencies to some certain degree.

In conclusion, all humans are born equal in their dignities and rights, so the legal backup should be provided to freely exercise these rights both at local and international levels. The world at large has the responsibility to formulate and enforce strict adherence to the human rights to equality which governs and enhances mutual societal living between individuals at different economic classes. Furthermore, equality further develops the basis upon which individuals generate a networked lifestyle with high integration of diversity for mutual benefits between the members with different origins, racial facets and other factors that mark individual differences. However, human rights organizations should be financially supported by governments and other institutions in order to provide necessary tools for fighting against human right violations.

References

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