

## International Human Rights Law and Organizations

5.1 Historical Overview When a government violates the human rights of its residents they may be able to appeal to the country's laws or bill of rights and get a court to order that the violations stop and that the government provide remedies. If suitable national laws and bills of rights are unavailable, however, victims of human rights violations may seek help from international law and organizations. Traditionally, international law did not confer rights and protections on individual persons; its concern was exclusively the rights and duties of countries or states. Victims of human rights violations could appeal to heaven, and invoke standards of natural justice, but there were no international organizations working to formulate and enforce legal rights of individuals. After World War I the League of Nations had some success in using minority rights treaties to protect national minorities in Europe, but the effort ended with the rise of Nazi Germany and the beginning of World War II. Countries fighting Hitler's Germany decided that after their victory a new international organization would be needed to promote international peace and security, and that securing human rights in all countries would help lessen the dangers of falling back into large wars (Lauren 1998, Morsink 1999, Glendon 2001). Indeed, prior to the official formation of the United Nations, the Allies imposed human rights obligations on Italy and Central European powers in peace treaties. Similar obligations were imposed on Germany and Japan during the Allied occupation (Henkin 1999). The United Nations was created in 1945. Its [Charter](#) established goals of protecting future generations from the "scourge of war" and promoting "fundamental human rights" and the "dignity and worth of the human person." Not long after its founding the UN established a committee with the charge of writing an international bill of rights. This document was to be similar to historic bills of rights such as the French Declaration of the Rights of Man and of the Citizen (1789) and the United States Bill of Rights (1791), but was to apply to every person in every country. This international bill of rights emerged in December 1948 as the [Universal Declaration of Human Rights](#) (Morsink 1999, Lauren 1998). Although some diplomats had hoped for a binding human rights treaty that countries joining the UN would have to adopt, the Universal Declaration was a set of recommended standards rather than a binding treaty. By now, however, almost all of the norms in the Universal Declaration have been incorporated in widely-ratified UN human rights treaties. The Universal Declaration has been astoundingly successful in setting the pattern for subsequent human rights treaties and in getting countries to include its list of rights in national constitutions and bills of rights (Morsink 1999). The Universal Declaration, and the treaties that followed it, largely define what people today mean when they speak of human rights. As we saw in [Section 1 above](#), the Universal Declaration proposed six families of rights including security rights, due process rights, liberty rights, rights of political participation, equality rights, and social rights. The inclusion of social rights to goods such as education and an adequate standard of living took the Declaration beyond its 18th century antecedents (see Eide 1992). The Universal Declaration was born at a time that made its success difficult. The Declaration's approval by the General Assembly coincided with the beginning of the Cold War – an ideological and geopolitical conflict between capitalist and communist countries that continued almost until 1990. Ideological differences and hostilities might have stalled the human rights movement if not for human rights advances in Europe. In the early 1950s Western European countries formed the Council of Europe and created the [European Convention for the Protection of Human Rights and Fundamental Freedoms](#). This international treaty entered into force September 3, 1953, and was binding upon countries that ratified it. The European Convention established basic rights similar to those in the Universal Declaration, but included provisions for enforcement and adjudication. The European Convention gave birth to the [European Court of Human Rights](#), whose job is to receive, evaluate, and investigate complaints, mediate disputes, issue judgements, and interpret the Convention. The human rights set forth in the Convention are legally enforceable rights to which member states are bound. In creating the European Convention and Court, the countries of Western Europe gradually proved that effective protection of human rights could be provided at the international level. Inspired by the success of the European Convention, the United Nations followed a similar path, creating numerous treaties aimed at the enforcement and adjudication of the rights set forth in the Universal Declaration. These documents establish legal obligations among the ratifying countries to implement international rights within their national legal and political systems. By 2000 the main human rights treaties had been ratified by a large majority of the world's countries. As Ann Bayefsky writes, "Every UN member state is a party to one or more of the six major human rights treaties. 80% of states have ratified four or more" (Bayefsky 2001). Regional arrangements, similar to those in Europe, exist in the Americas and Africa (see 5.4.2 and 5.4.3 below). Efforts to protect human rights through international law have obviously not been totally successful – lots of human rights violations still occur today in all parts of the world. International human rights law is a work in progress, and has developed much farther than one could have expected in 1950 or even in 1975.

5.2 United Nations Human Rights Treaties International human rights treaties transform lists of human rights into legally binding state obligations. The first such United Nations treaty was the [Genocide Convention](#), approved in 1948 – just one day before the Universal Declaration. The Convention defines genocide and makes it a crime under international law. The Convention requires states to enact national legislation prohibiting genocide, to try to punish persons or officials who commit genocide, and to allow persons accused of genocide to be transported to countries capable of trying the charge. It also calls for action by UN bodies to prevent and suppress acts of genocide (Genocide Convention, articles 5, 7, 9). Currently the Genocide Convention has more than 130 parties (1948). The [International Criminal Court](#), created by the Rome Treaty of 1998, is authorized to prosecute genocide at the international level, along with crimes against humanity and war crimes. After the creation of the Universal Declaration, the Human Rights Commission proceeded to try to create treaties that would make the rights in the Universal Declaration into norms of international law. Because of the Cold War, the effort went ahead at a glacial pace. To accommodate the ideological division between those who believed in the importance of social rights and those who did not, or who thought that social rights could not be enforced in the same way as civil and political rights, the Commission ultimately decided to create two separate treaties. Drafts of the two International Covenants were submitted to the General Assembly for approval in 1953, but approval was much delayed. Almost twenty years after the Universal Declaration, the United Nations General Assembly finally approved the [International Covenant on](#)

[Civil and Political Rights](#) and the [International Covenant on Economic, Social, and Cultural Rights](#) (both 1966). The Civil and Political Covenant contains most of the civil and political rights found in the Universal Declaration. The Social Covenant contains the economic and social rights found in the second half of the Universal Declaration. These treaties embodying Universal Declaration rights received enough ratifications to become operative in 1976 and have now become the most important UN human rights treaties. To date, these treaties have been ratified by about 75 percent of the world's countries (See [Status of Ratifications of the Principal Human Rights Treaties](#)). A country ratifying a UN human rights treaty agrees to respect and implement within domestic law the rights the treaty covers. It also agrees to accept and respond to international scrutiny and criticism of its compliance. It does not necessarily agree to make the human rights norm directly enforceable in domestic courts. That usually requires implementing legislation. A common method of treaty implementation within the UN is the creation of a standing committee (or [treaty body](#)) to monitor states' performance, and to which member states are required to submit periodic reports on compliance. The Civil and Political Covenant, which has been ratified by more than 150 countries, illustrates this approach. Rather than creating a human rights court, the Covenant created the [Human Rights Committee](#) (HRC), to promote compliance with its norms. The eighteen members of the HRC serve as independent experts rather than as state representatives. This potentially gives them some independence from the positions of their governments. The HRC frequently expresses its views as to whether a particular practice is a human rights violation, but it is not authorized to issue legally binding decisions (Alston and Crawford 2000). The HRC is responsible for publishing "general comments" regarding the interpretation of the Civil and Political Covenant, reviewing periodic state reports on implementation of the Covenant, and receiving and investigating complaints of human rights violations made by states and individuals. The Committee holds public sessions in which it hears from non-governmental organizations such as Amnesty International and meets with representatives of the state making the report. The HRC then publishes "Concluding Observations" that evaluate human rights compliance by the reporting country. This process requires countries to hold discussions with the Human Rights Committee and have their human rights problems exposed to world public opinion. The reporting procedure is useful in encouraging countries to identify their major human rights problems and to devise methods of dealing with them over time. Unfortunately, the reporting system has few teeth when dealing with countries that stonewall or fail to report, and the Human Rights Committee's conclusions often receive little attention (Bayefsky 2001). In addition to the required reporting procedure, the HRC has the authority to consider state complaints, alleging human rights violations by another member state (see article 41). The Civil and Political Covenant also has an optional provision requiring separate ratification that authorizes the HRC to receive, investigate, and mediate complaints from individuals alleging that their rights under the Covenant have been violated by a participating state (Joseph, Schultz, and Castan 2000). By 2006, 105 of the 155 states adhering to the Covenant had ratified this optional provision. Many other UN human rights treaties are implemented in roughly the same way as the Civil and Political Covenant. These include the [International Convention on the Elimination of All Forms of Racial Discrimination](#) (1966), the [Convention on the Elimination of All Forms of Discrimination Against Women](#) (1979), the [Convention on the Rights of the Child](#) (1989), the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (1984), and the [Migrant Workers Convention](#) (1990). These human rights treaties create their own treaty bodies to monitor compliance and implementation. The proliferation of treaty bodies and reporting requirements has led to considerable overlap and inefficiency within the UN human rights system (Bayefsky 2001). The standard UN system for implementing human rights not very powerful. It is stronger on the promotion of human rights than on their protection through adjudication. Unlike the regional systems in Europe and the Americas, it does not have an international human rights court with powers to order states to change their practices or compensate a victim. Its tools are largely limited to consciousness-raising, persuasion, mediation, and exposure of violations to public scrutiny.

### 5.3 Other United Nations Human Rights Agencies

Human Rights treaties are only one part of the UN's human rights program. In fact, the UN has several agencies and courts, independent of its human rights treaties, to address continuing human rights abuses. Three notable agencies are the [High Commissioner for Human Rights](#) (OHCHR), which serves as a full-time advocate for human rights within the UN; [Human Rights Council](#), which took over the main functions of the now defunct Human Rights Commission in addressing gross human rights violations; and the [Security Council](#), which has the authority to impose diplomatic and economic sanctions, sponsor peacekeeping missions, and authorize military interventions in cases of human rights emergencies.

#### 5.3.1 The High Commissioner for Human Rights

In 1993, following recommendations included in the World Conference on Human Rights in Vienna, the United Nations General Assembly established the office of the High Commissioner for Human Rights as part of the UN Secretariat. The OHCHR coordinates the many human rights activities within the UN, working closely with treaty bodies, such as the Human Rights Committee, and other UN agencies such as the Human Rights Council. The High-Commissioner assists in the development of new treaties and procedures, sets the agenda for human rights agencies within the UN, and provides advisory services to governments. Most importantly, the High Commissioner serves as a full-time advocate for human rights within the United Nations (Korey 1998). The OHCHR also has field offices throughout the world, including offices in Central Asia, East and Southern Africa, the Pacific, Latin America, and the Middle East.

#### 5.3.2 The Human Rights Council

In 2006 the longstanding UN Human Rights Commission was replaced by a new Human Rights Council. The Human Rights Commission was a 56 member committee, authorized by the UN Charter, consisting of state representatives. The stated goals of the replacement were to eliminate "double standards and politicization." The new Council's responsibilities include "promoting universal respect for the protection of all human rights," addressing gross human rights violations, making recommendations to the General Assembly, and "responding promptly to human rights emergencies." The Council's other responsibilities include providing direct assistance to UN member states to help them meet their human rights responsibilities through communication, technical assistance, and capacity building. The Council consists of 47 members, elected directly and individually by the General Assembly with membership based on equitable geographic distribution. Council members serve terms of three years, with a limitation of no more than two consecutive terms. Procedures for Council membership are aimed at

keeping countries with very poor human rights records off the Commission. Members must be elected by an absolute majority of the General Assembly, requiring 96 votes in a secret ballot, rather than a simple majority of General Assembly members present. The General Assembly also acts as a check on the Council, with the ability to suspend Council members whose countries commit gross human rights violations. The Council will meet no fewer than three times per year for at least ten weeks, with the ability to hold special sessions when necessary. For now the Council will adopt the procedures and responsibilities of the Human Rights Commission, but has a year to review and change them.

### 5.3.3 The Security Council

The Security Council's mandate under article 24 of the UN Charter is the maintenance of international peace and security. The fifteen-member body consists of 5 permanent and 10 elected members. Nine votes are needed to approve any measures. Any of the five permanent members (China, France, Russia, the United Kingdom, and the United States) can exercise their veto power to prevent a given action from succeeding. The permanent membership of five countries, with their veto power, is a clear concession to economic and military power within the Security Council. The Security Council can issue binding decisions regarding international security or peace, authorize military interventions and impose diplomatic and economic sanctions (Bailey 1994, Ramcharan 2002).

## 5.4 Regional Human Rights Systems

Regional arrangements supplement the UN system by promoting and protecting human rights in particular parts of the world. Three regions – Europe, the Americas, and Africa – have formulated their own declarations and conventions for the protection and enforcement of human rights. Because of their locations, regional agencies and courts have better chances of effectively investigating alleged violations promptly and securing relief for victims. Regional agencies are also likely to be more attuned to the culture and identity of the region and may accordingly have a deeper understanding of problems, circumstances, and possible reforms.

### 5.4.1 The European System

The [European Convention for the Protection of Human Rights](#) (1950) demonstrated to the world the possibility of enforcing internationally human rights norms. Article 3 of the [Statute of the Council of Europe](#) requires member states to accept the principles of human rights and fundamental freedoms within their jurisdictions. The Council even defines its post-1989 role as that of a “human rights watchdog” for post-communist European countries (see [About the Council of Europe](#)). During its 57 year history, membership in the Council of Europe has more than doubled—currently the Council has over 45 member states, 21 of which are Central or Eastern European states. The European Convention formulates human rights norms, legally binds member states to respect these norms, and creates a system of adjudication and enforcement. The European Convention's commitment clause requires all member states to secure these fundamental rights to every person within their jurisdictions. The first section of the European Convention then sets forth the fundamental rights covered in the convention, while the second section establishes the European Court of Human Rights. The rights set forth in the European Convention are similar to the first twenty-one articles of the Universal Declaration, covering standard civil and political rights. Social rights were treated in a separate document, the [European Social Charter](#). The European Convention defines its rights in greater detail than the Universal Declaration. A good example of this is seen in the right to life. While the Universal Declaration simply sets forth, “everyone has the right to life,” the European Convention's formulation is far more specific, requiring a mens rea as a necessary condition for violation and defining specific exceptions to this right (see article 2). The European system originally had both a Commission and a Human Rights Court to ensure that member states fulfilled their human rights obligations. In 1998, the European Convention was amended to abolish the Commission, expand and reorganize the Court, and make the Court a full-time operation. Countries that ratify the European Convention agree to respect and implement a list of rights, but they also agree to the investigation, mediation, and adjudication of human rights complaints. The European Court of Human Rights, based in Strasbourg, France, is composed of one judge from each participating state in the Council of Europe. The judges, however, are appointed as independent jurists rather than as state representatives. Citizens from the participating countries with human rights complaints who have been unable to find a remedy in their national courts may petition the European Court of Human Rights. Complaints by governments about human rights violations in another participating country are also permitted, but are rarely made. If the Court agrees to hear a complaint, it investigates and adjudicates it. Before issuing a judgment, the Court attempts to mediate the dispute. If conciliation fails, the Court will issue a judgment with supporting judicial opinions and impose a remedy. Through this process a large body of international human rights jurisprudence has developed (Jacobs and White 1996; Janis, Kay and Bradley 1995). Participating governments almost always accept the Court's judgments. Compliance occurs because governments are committed to the European Convention and to the rule of law, and because their membership in good standing in the Council of Europe would be endangered were they to defy the Court.

### 5.4.2 The Inter-American System

The [Organization of American States](#) (OAS) is the oldest regional organization of states. In 1948, 21 states signed the [OAS Charter](#), establishing the regional organization and affirming their commitment to democracy, liberty, and equality before the law. One OAS principle, set forth in article 3 of the charter, is the “fundamental rights of the individual without distinction as to race, nationality, creed, or sex.” The Inter-American system consists of two main documents, the [American Declaration of the Rights and Duties of Man](#) and the [American Convention on Human Rights](#); and two main treaty bodies, the [Inter-American Commission on Human Rights](#) and the [Inter-American Court of Human Rights](#). All 35 of the independent countries in the Americas currently comprise the Organization of American States. Even before the UN adopted the Universal Declaration, the Organization of American States approved the American Declaration (1948). Like the Universal Declaration, the American Declaration encompasses the entire range of human rights. Additionally, the declaration includes an explicit list of duties, ranging from general duties toward society and one's children, to an individual's duty to vote, work, and pay taxes (articles 29-38). Despite its early beginnings, the Inter-American system of human rights progressed more slowly than its counterparts. Not until 1969 did the OAS adopt the American Convention on Human Rights, which entered into force in June of 1978. The Convention gave legal force to most of the rights established in the American Declaration with a commitment clause requiring states to adopt legislative or other measures necessary for full implementation of these rights. Similar to the European Convention on Human Rights, the American Convention protects civil and political rights as well as property rights and freedom from exile and collective expulsion for aliens.

The Convention does not, however, cover social rights. Those are found in the [Protocol of San Salvador](#) (1988). The American Convention is unique in its inclusion of a right to seek asylum (Henkin 1999). To date, 25 of the 35 OAS member states have adopted the Convention. The Inter-American Commission on Human Rights was established in 1959 and conducted its first investigation in 1961. The Commission is the first of two permanent bodies for promoting and protecting human rights in the Americas and consists of seven members elected by the OAS General Assembly who serve in their personal capacities. The Commission's main functions include investigating individual complaints and preparing reports on countries with severe human rights problems. To this end the Commission is authorized to:

- Receive and investigate individual petitions regarding human rights violations
- Publish reports regarding human rights situations in member states
- Visit member states and investigate general human rights conditions or particular problem areas
- Publish studies on specific subject areas, such as indigenous rights and women's rights
- Make human rights recommendations to member states
- Submit cases to, or request advisory opinions from the Inter-American Court of human rights.

In 1979 the OAS adopted the Statute of the Inter-American Court of Human Rights, officially creating the Inter-American Court and defining its jurisdiction. The Court is authorized to interpret and enforce the Convention. (Davidson 1997). The Court is composed of seven judges who serve a six year term in their individual capacity. Because judges serve in their individual capacity, the statute of the court explicitly prohibits them from holding positions that are incompatible with a judicial position, namely, positions in the executive branch of government, officials of international organizations. The Court's jurisdiction is limited to cases submitted by state parties and the Inter-American Commission involving the interpretation or application of the American Convention. The Court generally holds public hearings and delivers decisions in public sessions, ensuring its transparency. The Court issued its first decision in 1980, and to date has issued over 65 decisions. Thus far, the Commission has been a far more important actor than the Court in the implementation of the American Convention (Farer 1997). The Commission's jurisdiction is limited to individual cases alleging a human rights violation by OAS member states. Currently the Commission is processing more than 800 individual cases.

#### 5.4.3 The African System

The newest regional human rights system covers the countries of the African continent. In 2000 the Organization of African Unity transformed itself into the [African Union](#). The [Constitutive Act](#) whereby this was accomplished reaffirmed Africa's determination "to promote and protect human and peoples' rights." The African Union's objectives include the promotion and protection of human rights in accordance with the [African Charter of Human and Peoples' Rights](#) and "other relevant human rights instruments." As of 2006 the African Union consists of 53 state parties. The African Charter on Human and Peoples' Rights was created in 1981 and entered into force in 1986. This treaty obligates ratifying countries to recognize the rights and duties listed and to adopt legislation or measures to bring them into effect (article 2). The African Charter is divided into two parts. The first part sets forth rights and duties and the second part establishes safeguards for them. Like the American Convention on Human Rights, the African Charter does not simply identify rights but also explicitly imposes duties upon individuals (articles 27-29). These individual duties, included perhaps to counter claims that human rights promote excessive individualism, consist of duties to family, society, state, and the international community. The African Charter explicitly posits group rights – the rights of peoples. Examples of such rights include the right of a group to freely dispose of its natural resources in the exclusive interest of its members (article 21), and the right of a colonized or oppressed group to free themselves from domination (article 20). The Charter created an African Commission on Human and Peoples' Rights to promote and ensure the protection of human and peoples' rights in Africa. (article 30). The Commission meets twice a year and consists of eleven members of the African community who serve six year terms in their personal capacities. The functions of the Commission are the promotion of human rights, the protection of these rights, interpretation of the African Charter, and the performance of "any other tasks" requested by the AU (article 45). The Commission is also authorized to perform studies regarding problems in the area of human rights; formulate rules addressing human rights problems; investigate alleged human rights violations by any appropriate means; and prepare reports discussing human rights abuses; and make recommendations to the AU Assembly (articles 45-54). Furthermore, states are required to submit regular reports to the Commission on their human rights problems and efforts to address them (article 62). An [African Court of Human and Peoples' Rights](#) is currently under construction. The African system has enormous human rights problems to address, frequently faces non-cooperation by governments, and has inadequate resources to play a major role (Evans and Murray 2002). But despite its limited legal and economic resources the African Union seems to be slowly constructing international mechanisms to promote and protect human rights in Africa.

#### 5.4.4 Other regions

Other regions of the world have yet to establish transnational human rights systems. No regional system exists in Asia, and the members of the [League of Arab States](#) have yet to ratify their [Arab Charter of Human Rights](#) despite its adoption more than a decade ago.

#### 5.5 The International Criminal Court

Once human rights norms are established internationally, the question arises about what should be done by way of punishment and accountability for political, military, and ethnic leaders who have organized and carried out severe human rights violations. The International Criminal Court (ICC) is designed to prevent impunity for human rights crimes, genocide, war crimes, and crimes against humanity. The ICC was based on the models and experience of the [Nuremberg Tribunal](#), the [International Tribunal for the Former Yugoslavia](#), and the [International Criminal Tribunal for Rwanda](#). The ICC was created in 1998 when 120 States adopted the [Rome Statute of the International Criminal Court](#) setting forth the jurisdiction and functions of the Court. By April 11, 2002 the Rome Statute obtained the requisite number of ratifications, and entered into force on July 1, 2002 (Broomhall 2003). Within fifteen months the state parties to the Rome Statute adopted the Rules of Procedure and Evidence, Elements of Crimes, and Agreement on Privileges and Immunities, and elected the Court's 18 judges (McGoldrick et al. 2004). The ICC is intended to be complementary to States' national systems for prosecuting war crimes and human rights violations and its jurisdiction is limited to "the most serious crimes of concern to the international community as a whole" (Rome Statute, article 1). The Statute sets forth the following four crimes over which the ICC may exercise jurisdiction: (1) genocide; (2) crimes against humanity; (3) war crimes; and (4) the crime of aggression against another state. The ICC may not, however, exercise jurisdiction over crimes of

aggression until members of the Court adopt a satisfactory definition of the crime and set out conditions for the Court's exercise of jurisdiction for this crime (article 5.2). Until this is accomplished the ICC's jurisdiction is limited to 1-3. The Rome Statute creates an independent Office of the Prosecutor who is responsible for receiving petitions, conducting investigations, and prosecuting the gravest international crimes (articles 34, 42). The Prosecutor may accept referrals made by State Parties or by the United Nations Security Council, and may also accept information about crimes from individuals and nongovernmental organizations. Furthermore, the ICC may only exercise its authority when either "the State in which the crime was committed (the "territorial State") or the State of which the accused is a national (the "State of nationality") is a party to the Statute or has specifically accepted the jurisdiction of the Court" (Cameron 2004). The United States has refused to ratify the ICC, and it is unclear whether this will prevent the ICC from being fully effective. Both the Clinton and George W. Bush administrations had reservations about turning decisions to prosecute international crimes over to an independent prosecutor rather than keeping such decisions within the Security Council. The underlying worry, no doubt, was that U.S. officials and soldiers would be possible targets of politically motivated prosecutions. For a critical account of the U.S. position on the ICC see [Human Rights Watch](#).

### 5.6 Promotion of Human Rights by States

Perhaps the most important role that states play in international human rights law is in defining and establishing that law by creating and ratifying human rights treaties. Treaties are generally authored by committees of state representatives, and they are ratified by executive and legislative consent at the national level. Once a treaty is established, states help give it life by creating domestic legislation to implement it, conforming their conduct to its norms, and using it as a standard for domestic and international evaluation and criticism. Article 56 of the United Nations Charter obligates member states to take "joint and separate action" for the achievement of United Nations purposes of observance of human rights and fundamental freedoms for all. Individual efforts take several forms, including the incorporation of international human rights documents into domestic law and state actions attempting to resolve human rights crises in other countries. Within a country, means of promoting international human rights include incorporating international norms into a state's constitution and criminal law; creating limits on federalism, such as subordinating localities to the federal government; and, promoting human rights through propaganda and education. Perhaps the most basic method is enforcement through law at the national level. For example, to comply with the Genocide Convention a country must make genocide a crime within its own legal system. Much international law is obeyed because its norms have been incorporated into the legal systems of countries (Hathaway 2005). Since the end of the Cold War, numerous states have formulated new or revised constitutions that include human rights. A sampling of these states includes Romania (1991), Slovenia (1991), Congo (1992), Lithuania (1992), Albania (1993), Russian Federation (1993), Moldova (1994), Tunisia (1995), Cameroon (1996), and Poland (1997) (Alston 1999). A recent example of the incorporation in domestic law of international norms is found in the United Kingdom [Human Rights Act](#) of 1998. The Act protects rights similar to the ones in the European Convention on Human Rights, including the right to life, liberty, security and a fair trial, and the prohibition of torture, slavery, forced labor. Here the state uses its own internal legal system to enforce human rights norms. A resident of the UK, instead of having to go to the [European Court of Human Rights](#) located in Strasbourg, France, can bring a human rights claim to local courts or tribunals. By imposing international and domestic obligations, self-enforcement measures ultimately serve as an in-house check on governments to ensure compliance with their human rights obligations. Another mechanism for state promotion of human rights is the creation of national human rights commissions. Their functions include educating people on human rights, promoting human rights, and advising local governments about human rights (Ramcharan 2005). Representatives of state commissions may even participate in annual United Nations human rights sessions, enabling a state's human rights problems or successes to receive attention at the international level (Ramcharan 2005). Countries with national human rights commissions include Australia, Canada, Fiji, India, Ireland, Mexico, Nepal, the Philippines, and Uganda, to name a few. States often take actions, unilaterally or together with other states, intended to promote and protect human rights in other countries. For example, in the late 1990s Australia led the military effort to restore peace and respect for human rights in East Timor. A new crisis erupted in 2006 and Australia, Portugal, New Zealand, and Malaysia again sent troops to suppress the violence. States use diplomacy, publishing reports and statements, conditioning access to trade or aid on human rights improvements, economic sanctions, and military intervention to promote human rights in other countries. Humanitarian intervention is the use of force by one state to prevent or stop gross human rights violations and other humanitarian disasters in another state (Teson 2005). Obviously, military intervention conflicts with the idea of non-intervention, a cornerstone of international law. Non-intervention discourages the use of force against the political and territorial sovereignty of states, and in doing so promotes international peace and security. Perhaps humanitarian intervention, like self-defense, is an exception to the principle of non-intervention. There is always the risk of a state pursuing its own foreign policy goals under the guise of "humanitarian intervention." This issue is currently being debated over the United States' intervention in Iraq (See [Human Rights Watch: The War in Iraq: Not a Humanitarian Intervention](#); see also Teson 2005). War can be rationalized by calling it "humanitarian intervention" and emphasizing high-minded motives. Still, there are situations in which military intervention is the only possible means of ending a consistent pattern of gross human rights violations. Humanitarian intervention relies on the presumption that sovereign nations have an obligation to respect fundamental human rights. When state officials perpetrate human rights crimes and the government fails to bring them to justice, the responsibility of the international community is triggered. International organizations have been widely criticized for failing to intervene early and decisively during the genocide in Rwanda. Efforts by states help to add real power to the international human rights system. The countries of Western Europe, Canada, Australia, and the United States, have been the historic pillars of the human rights establishment. They have lent their considerable support and clout to the system, keeping it going during hard times and helping it expand and flourish in better times. Although they have human rights problems of their own and have not always risen to the challenge of human rights emergencies, they have sometimes provided military and peacekeeping forces at considerable cost to themselves in money and lives. They have often worked closely with the Security Council in these efforts. They do not, however, have a standing legal commitment

to do this, except their commitment under the UN Charter to support the actions of the Security Council. 5.7 Nongovernmental Organizations

Nongovernmental organizations such as Human Rights Watch and Doctors without Borders are extremely active at the international level in the areas of human rights, war crimes, and humanitarian aid. Nongovernmental organizations (NGOs) allow for collaborations between local and global efforts for human rights by “translating complex international issues into activities to be undertaken by concerned citizens in their own community” (Durham 2004). The functions of international NGOs include investigating complaints, advocacy with governments and international governmental organizations, and policy making. Local activities including fundraising, lobbying, and general education (Durham 2004). Although they do not have the authority to implement or enforce international law, NGOs have several advantages to state organizations in the human rights system. Much of their work includes information processing and fact finding, in which NGOs educate people about their human rights and gather information regarding human rights abuses in violating countries (Claude 1992, Durham 2004). In this process NGOs have the benefit of access to local people and organizations and are often able to get direct and indirect access to critical information about current human rights violations (Durham 2004). Once they gather information, NGOs can design campaigns to educate the international community of these abuses. A key function of NGOs is advocacy ? urging support for human rights and attempting to influence governments or international groups with regard to specific actions. Advocacy involves education, persuasion, public exposure, criticism and provoking specific responses to human rights abuses (Claude 1992). Representatives of NGOs are seen everywhere in the international human rights system. Many international human rights NGOs attend and often participate in the meetings of UN human rights bodies (Claude 1992). They provide information about human rights situations through their reports and testimony. They shape the agendas, policies, and treaties of the UN through participation and lobbying (Korey 1998). Notable examples include NGO involvement in the development of the Universal Declaration of Human Rights and the UN Declaration on Torture and Other Cruel, Inhuman or Degrading Treatment (Claude 1992). NGOs with affiliates around the world include Amnesty International, Human Rights Watch, the International Commission of Jurists, the International Federation of Human Rights, Minority Group Rights, Doctors without Borders, and Oxfam. Besides these high profile NGOs there are thousands of local and national organizations working on human rights issues. For a comprehensive list of such organizations see [Non-governmental Organizations Research Guide](#)

5.8 The Future of Human Rights Law A person who has read the foregoing account of human rights law may wonder whether it has made any difference. If so much international human rights law exists, why is the world such a mess? A simple answer with much truth in it is that the world's human rights problems are large and deeply entrenched, and that human rights law and organizations are, by comparison, not very strong ? particularly within the United Nations. Countries with the worst human rights records often do not much participate in the UN system (for example, one fourth of the world's countries have not ratified the Civil and Political Covenant), and many others participate in a formal and hypocritical way. Regional systems, particularly in Europe and the Americas, do somewhat better. They have their own human rights courts, are more powerful, and enjoy more serious and sincere participation by many (but not all) of their members. The first 50 years of the human rights movement were handicapped by the Cold War. With that handicap removed, the 1990s were a period of growth and improvement in human rights law and institutions. The period since 2001 has seen a preoccupation with terrorism that has taken much attention and energy away from other human rights problems. Success in promoting human rights requires hard-to-achieve success in other areas including building more capable, responsive, efficient, and non-corrupt governments, dealing with failed states, increasing economic productivity (to pay for the protections and services that human rights require), improving the power and status of women, improving education, and managing international tensions and conflicts. Realizing human rights worldwide is a project for centuries, not decades. Still, there are some grounds for optimism. Human rights are more widely accepted than they have ever been. They have become part of the currency of international relations, and most countries participate in the human rights system. Treaty arrangements help encourage and pressure countries to deal with their human rights problems. The human rights project continues and has not failed.

## About the Author

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