

In Hurst Hannum (Ed)

**Guide to Intellectual Human Rights Practice** (4th Ed)

(Transnational Publishers, 2004) Chpt. 1 (pp. 3-18)

# An Overview of International Human Rights Law

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Chapter 1

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The international human rights movement is based on the concept that every nation has an obligation to respect the human rights of its citizens and that other nations and the international community have a right, and responsibility, to protest if states do not adhere to this obligation. International human rights law consists of the body of international rules, procedures, and institutions developed to implement this concept and to promote respect for human rights in all countries.

While international human rights law focuses on international rules, procedures, and institutions, it typically also requires at least some knowledge of and sensitivity to the relevant domestic law of countries with which the practitioner is concerned. In particular, one must be aware of national laws regarding the implementation of treaties and other international obligations, the conduct of foreign relations, and domestic protection of human rights. Indeed, since international law is generally applicable only to states and may not normally create rights directly enforceable by individuals in national courts, international human rights law can be made most effective only if each state makes these rules part of its domestic legal system. Many human rights initiatives are directed at encouraging countries to incorporate international human rights standards into their own internal legal order in this way. Thus, the work of international human rights lawyers and national human rights (or "civil rights") lawyers is closely related.

In practice, the differences between international human rights and national civil rights often lie more in emphasis than substance. Concern for human rights rarely begins or ends at any single nation's boundaries, and effective action to protect and promote human rights, whether at home or abroad, can be furthered by the imaginative use of both national and international techniques.

It is not necessary to be an expert in international human rights law to be able to make a significant contribution to the promotion of human rights. However, a knowledge of this body of law may suggest ways in which such efforts can be pursued more effectively. This introductory chapter presents a broad overview of the field.

## A Brief Historical Note

Although the idea that human beings are inherently entitled to certain fundamental rights and freedoms has roots early in human thinking, the concept that human rights are an appropriate subject for international regulation is very new. Throughout most of human history, the way a government treated its own citizens was considered solely its own business and not a proper concern of any other state. From an international legal standpoint, human rights questions were regarded as matters entirely within each state's own domestic jurisdiction and wholly inappropriate for regulation by international law. The United States, for example, could properly complain to France if France mistreated *American* citizens living in France; international law had early established rules as to how each nation had to behave regarding nationals of another state ("aliens") present within its territory, and a state could protest or extend its diplomatic protection to its own nationals if their rights were violated. But, under traditional international law, the United States could *not* legitimately complain solely because France mistreated its own *French* citizens; if the United States tried to interfere in such matters, France could claim that the United States was violating French sovereignty by illegally intervening in its domestic affairs.

While this attitude—that human rights questions were generally outside the purview of international concern or regulation—was broadly accepted until World War II, several developments before then suggested at least limited exceptions to the rule that human rights questions were wholly internal. These included the antislavery movement of the nineteenth and early twentieth centuries, which culminated in adoption of the Slavery Convention of 1926; early international expressions of concern over the treatment of Jews in Russia and Armenians in the Ottoman empire; the inclusion in certain post-World War I treaties establishing new states in Eastern Europe of provisions and procedures to protect minorities within those countries; certain aspects of the League of Nations mandates system; and the establishment in 1919 of the International Labor Organization (ILO) and the subsequent activities of that organization.

However, most of what we now regard as "international human rights law" has emerged only since 1945, when, with the implications of the



holocaust and other Nazi denials of human rights very much in mind, the nations of the world decided that the promotion of human rights and fundamental freedoms should be one of the principal purposes of the new United Nations organization. To implement this purpose, the UN Charter established general obligations requiring member states to respect human rights and provided for the creation of a Human Rights Commission to protect and advance those rights.

UN concern with human rights has expanded dramatically since 1945. Numerous international instruments have been adopted, among the most notable of which are the Universal Declaration of Human Rights and the Genocide Convention (1948); the Convention on the Political Rights of Women (1952); the Standard Minimum Rules for the Treatment of Prisoners (1957); the Convention on the Elimination of All Forms of Racial Discrimination (1965); the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights (1966); the Protocol relating to the Status of Refugees (1967); the Convention on the Elimination of All Forms of Discrimination against Woman (1979); the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984); the Convention on the Rights of the Child (1989); and the Convention on Migrant Workers (1990). In 1993, the Second World UN Conference on Human Rights, held in Vienna, focussed renewed attention on human rights issues; other recent international conferences have focussed attention on the environment (1991, Rio de Janeiro), population and development (1994, Cairo), social development (1995), and women (Beijing, 1995). In 1998, agreement was reached on creation of an international criminal court, and the Rome Statute of the International Criminal Court entered into force on 1 July 2002.

Increased UN involvement in human rights matters has been mirrored by growing adoption of regional human rights instruments, as illustrated by the entry into force in 1953 and subsequent evolution of the European Convention on Human Rights (which now covers forty-five countries and over 800 million people), the establishment of the Inter-American Commission on Human Rights in 1960, the entry into force of the American Convention on Human Rights in 1978, and the entry into force of the African Charter on Human and Peoples' Rights in 1986.

By the late 1960s, human rights had become relatively well established on the international agenda. Before 1960, human rights questions were regularly debated in the United Nations, but few states paid such discussions much attention. The rapid growth of UN membership in the early 1960s to include a significant number of African and other developing nations deeply concerned with problems of self-determination and racial discrimination, particularly in southern Africa, and the growing

emphasis by Arab countries on human rights aspects of the Palestine question after 1967, resulted in these specific human rights issues being given a prominent role in UN politics. Increasing interest in human rights on the part of the U.S. Congress beginning in the early 1970s and President Jimmy Carter's decision that international human rights should play a leading role in U.S. foreign policy raised interest in human rights in the United States and around the world. Both the European Union and the Organization for Security and Cooperation in Europe now give considerable attention to human rights, and creation in 1994 of the post of UN High Commissioner for Human Rights has cemented the central place that human rights issues have assumed in international relations.

The international human rights movement received further world attention when the Nobel Prize for Peace was awarded in 1977 to Amnesty International for its human rights work for "prisoners of conscience," and, in 1980, to the Argentine human rights activist Adolfo Perez Esquivel. Since that time, other Peace Prize recipients whose work primarily concerned human rights or political freedoms include Lech Walesa (1983), Bishop Desmond Tutu (1984), the Dalai Lama (1989), Aung San Kuu Kyi (1991), Rigoberta Menchu Tum (1992), Bishop Carlos Bello and Jose Ramos-Horta (1996), Médecins Sans Frontières (1999), and Shirin Ebadi (2003).

Considering the relatively recent emergence of much international human rights law (compared to established international legal concepts such as sovereignty), it is not surprising that the field is one in which rules are still imprecise, fragmentary, and sometimes overlapping, and in which institutions and procedures continue to evolve. Today, however, the basic concept of international human rights is firmly established in international law and practice.

## What Is the Content of International Human Rights Law?

International human rights law is derived from a variety of sources and involves many kinds of instruments, both international and national. The details of international procedures to protect human rights are examined in the remainder of this book. However, a few examples may illustrate the many different types of materials with which lawyers and others concerned with international human rights should be familiar.

First, there are now dozens of important multilateral treaties in force in the field of human rights, which create legally binding obligations for the states that are parties to them.[1] The most important of these is the United Nations Charter itself. The Charter is binding on almost every country in the world and establishes general obligations to respect and promote human rights. More specific international obligations are established in a series of UN-sponsored international human rights agreements of global scope and the three regional human rights conventions now in force. Many other relevant and important treaties have been concluded under the auspices of the ILO, UNESCO, and other UN specialized agencies, as well as various regional organizations.



Second, there are a great number of international declarations, resolutions, and recommendations relevant to international human rights that have been adopted by the United Nations, other international organizations or conferences, or nongovernmental and professional organizations concerned with human rights. While these instruments are not directly binding in a legal sense, they establish broadly recognized standards and are frequently invoked in connection with human rights issues.[2] The most important of these is the Universal Declaration of Human Rights, adopted without a dissenting vote by the UN General Assembly in 1948, which has provided a framework for much subsequent work. Another important instrument is the 1975 Helsinki Final Act and subsequent documents adopted by of the Conference on Security and Cooperation in Europe, which in 1994 became the Organization for Security and Cooperation in Europe. Other examples of such "soft law" include the 1957 Standard Minimum Rules for the Treatment of Prisoners, the 1981 General Assembly Declaration on Religious Intolerance, and the 1992 General Assembly Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities.

Third, a variety of actions by UN organs and other international bodies have supported specific efforts to protect human rights. Examples include the International Court of Justice's 1971 Advisory Opinion on the Continued Presence of South Africa in Namibia (South West Africa); Security Council resolutions imposing sanctions on or authorizing intervention in Rhodesia (1968), South Africa (1977), former Yugoslavia (1991), Somalia (1992), Haiti (1994), and (eventually) Rwanda (1994); Security Council resolutions creating criminal tribunals to deal with mass killings in former Yugoslavia (1993), Rwanda (1994), Sierra Leone (2002), and Cambodia (2004); General Assembly resolutions dealing with human rights issues in Southern Africa, Chile, and the Middle East; resolutions and other actions by the UN Commission on Human Rights and its Sub-Commission on the Promotion and Protection of Human Rights;[3] the activities of the various treaty-based supervisory bodies;[4] and a growing body of decisions by regional commissions and courts in Europe and the Americas.[5]

Fourth, there are a great many national laws, regulations, court and administrative decisions, and policy pronouncements relevant to implementing international human rights objectives, both within each country

and with respect to its relations with other countries. In the United States, for example, these domestic tools include provisions of the U.S. Constitution and Bill of Rights; legislation prohibiting discrimination and slavery and ensuring the political rights of women; legislation and regulations implementing the Genocide and Torture Conventions; legislation denying security assistance to any country whose government engages in a consistent pattern of gross violations of internationally recognized human rights; the Alien Tort Claims and Torture Victims Protection Acts, which allow federal civil suits against individuals who violate certain internationally protected human rights; judicial decisions dealing with aspects of international human rights law; and federal, state, and municipal judicial and administrative decisions dealing with aspects of American corporate operations in foreign countries that engage in gross violations of human rights.[6] Many other countries also have extensive bodies of domestic law or policy relevant to international human rights.

Finally, many international and national institutions contribute to the protection of human rights, even if their primary concern may be with other issues. For example, the relationship among human rights, humanitarian assistance, and development is of growing interest to many international governmental and nongovernmental organizations (NGOs). At the domestic level, legislative bodies; ministries dealing with foreign relations, trade, and defense; and courts at all levels may on occasion become involved in human rights questions or serve as arenas for promoting human rights objectives.

Obtaining documents and other information relevant to international human rights law is not always easy, although the World Wide Web and Internet are increasingly useful sources for up-to-date information. The most important materials, in both printed and electronic form, are identified in the Bibliographical Essay contained in Appendix A.

## Who Is Bound by International Human Rights Law?

Unlike individual sovereign states, the community of nations has no international legislature empowered to enact laws that are directly binding on all countries. (Resolutions adopted by the UN General Assembly are only recommendations and do not legally bind its members. Of course, decisions of the UN Security Council adopted under Chapter VII of the Charter are legally binding on all UN members, and a number of such decisions in the past decade have been directly relevant to human rights concerns.) Instead, states establish legally binding obligations among themselves in other ways, principally by expressly consenting to an obligation by ratifying a treaty or other international agreement or through wide acceptance of a rule as binding customary international law.



International law, including human rights law, is primarily applicable to states rather than to individuals. Consequently, these international rules generally can become a source of domestic legal obligation for a state's officials and of domestic rights for that nation's citizens only through their incorporation in some manner into the state's own internal law.

In practice, the most important source of international human rights law is likely to be international treaties, which directly create international obligations for the parties. But treaties are binding only when they are in force and only with respect to the nations that have expressly agreed to become parties to them. Thus, in determining whether a treaty is legally relevant to the human rights situation in a particular country, it is important to ascertain: (1) whether the treaty contains express language requiring the parties to respect the particular human rights at issue; (2) whether the treaty is in force, since multilateral treaties typically do not take effect until a certain number of nations have deposited their ratifications (formal instruments indicating their intent to be bound); (3) whether the nation involved has in fact ratified the treaty, since signature alone may not legally bind a nation to the obligations of a multilateral treaty; and (4) whether the nation in question has filed any reservations that expressly modify its treaty obligations.

As indicated above, the human rights treaties establish a widespread network of human rights obligations. Almost all nations in the world are now parties to the UN Charter. While the human rights provisions of the Charter are broadly stated, it is now generally accepted that at least gross and systematic government-imposed or endorsed denials of human rights, such as the imposition of apartheid or government-sanctioned genocide, may directly violate Charter obligations. Most human rights conventions have now been widely ratified, and there are now approximately 150 state parties to the two Covenants; 170 parties to the Convention on the Elimination of All Forms of Racial Discrimination and Convention on the Elimination of All Forms of Discrimination against Women; and over 190 parties to the Convention on the Rights of the Child and the Fourth Geneva Convention on the Protection of Civilian Persons in Times of War.

A second source of international human rights law is international custom. In order to establish the existence of a rule of customary international law, it is necessary to demonstrate a widespread practice by states conforming to the alleged rule, together with evidence that they follow this practice because they believe that they are under a normative obligation to comply with the rule. It may be particularly useful if a specific human rights rule has become part of customary international law, since customary international law is generally binding upon *all* states, without regard to whether they have expressly consented. However, the concept

of customary law is somewhat technical, and proving the existence of a customary rule can be difficult.

The authoritative 1987 *Restatement (Third) of The Foreign Relations Law of The United States* takes the position that at least certain basic human rights are now protected by customary international law. Section 702 of the *Restatement* provides, "A state violates international law if, as a matter of state policy, it practices, encourages, or condones (a) genocide, (b) slavery or slave trade, (c) the murder of causing the disappearance of individuals, (d) torture or other cruel, inhuman or degrading treatment or punishment, (e) prolonged arbitrary detention, (f) systematic racial discrimination, or (g) a consistent pattern of gross violations of internationally recognized human rights." Other commentators have identified different lists, but there seems to be widespread agreement that a number of rights are now included within customary international law.[7]

Even if particular international human rights instruments such as treaties or declarations are not *legally* binding on a particular state (either because it has not ratified the treaty or because the particular rule is not recognized as customary law), such instruments may possess a moral or political force that may be useful in persuading government officials to observe human rights standards. Moreover, national courts may be responsive to arguments that domestic law should be interpreted consistently with international human rights standards, particularly in cases where an inconsistent interpretation, even if not technically a breach of international law, might nevertheless be politically embarrassing.

While international law has traditionally been concerned primarily with relations among states, it is becoming widely recognized that individuals are the real subjects and beneficiaries of international human rights law. Individuals may have access to assert the rights granted to them under international law in various ways.

First and most importantly, states may incorporate international obligations expressed in human rights treaties into their domestic law; the rights can then be invoked directly by individuals as part of that state's internal law. Whether and how such incorporation takes place depends on each state's domestic law, and states differ in this respect. Under the basic law of some countries, a ratified treaty automatically becomes part of domestic law; in others, specific implementing legislation is required to create any domestic effect or individual right.

Second, some human rights treaties establish standing for individuals and/or NGOs to bring complaints directly before international bodies. This is the case, for example, if a state has acceded to the European Convention on Human Rights, the American Convention on Human Rights, or the Optional Protocol to the International Covenant on Civil and Political Rights.



In certain circumstances, individuals also may be held personally accountable under international law for genocide, crimes against humanity, and grave breaches of the laws of war. Several treaties (including the conventions on genocide, apartheid, and torture) impose individual criminal responsibility on government officials and, in some cases, others who violate the human rights protected by these conventions. As noted above, the UN Security Council has created international criminal tribunals to try individuals accused of serious violations of international humanitarian law in the former Yugoslavia and genocide in Rwanda, and the International Criminal Court has jurisdiction over genocide, crimes against humanity, and serious war crimes. In addition, hybrid courts, enforcing a combination of domestic and international criminal law and comprising both local and international judges and staff have been established in Kosovo, East Timor, Sierra Leone, and Cambodia. Finally, individual states may exercise universal jurisdiction over some international crimes, as Belgium now does in a somewhat limited form, and as Spain and other states attempted to assert in 1998 with respect to former Chilean ruler Augosto Pinochet.

## How Can International Human Rights Obligations Be Enforced?

Implementation is key to making the system of international protection of human rights effective, but it has proved a difficult and troublesome problem. The jurisdiction of international courts depends upon the consent of the states involved, and relatively few states have given such consent with respect to disputes involving human rights. (The notable exceptions are the forty-five parties to the European Convention on Human Rights, which now mandates acceptance of the jurisdiction of the European Court of Human Rights, and the more than twenty states that have accepted the optional jurisdiction of the Inter-American Court of Human Rights.) Moreover, international courts are generally open only to states and not to individuals, although the European and inter-American systems are, again, exceptions. Finally, even when international courts are able to render judgments against nations that violate human rights obligations, there is no international police force to enforce such orders. Consequently, international human rights law, like all international law, must rely heavily on voluntary compliance by states, buttressed by such moral and other influence as other countries are prepared to exert.

One way of examining enforcement or implementation options is in terms of the level at which they occur. Thus, international human rights obligations can be implemented through action within the domestic sys-

tem of the state concerned, by other states in the course of international relations, or by international bodies.

The easiest and most effective way to implement human rights is through action within each country's own legal system. If domestic law provides an effective system of remedies for violations of international human rights obligations (or their domestic equivalents), the authority of a nation's own legal system can be mobilized to support compliance with international norms. Most human rights treaties require that parties incorporate relevant obligations into their domestic law and that they provide appropriate local remedies. This, in turn, provides the rationale for the common requirement that domestic remedies be exhausted before an international body will investigate a complaint of human rights violations. Human rights treaties also frequently require that nations make periodic reports on their compliance with their treaty obligations, including reference to how these obligations are incorporated into domestic law, to international institutions overseeing the treaties.

Enforcement also can occur at the interstate level. Thus, one state may complain directly to another state concerning the latter's alleged breach of human rights obligations and can bring diplomatic pressure to bear in an attempt to influence the other country to cease such violations. Such pressure might include traditional "quiet diplomacy," public criticism, denial of military and economic assistance, or, at the extreme, through the use of force for "humanitarian" intervention.

Enforcement by international organizations occurs through a variety of international forums in which complaints of human rights violations can be raised by states or individuals, most of which are discussed in greater detail in this book. These include regional and global procedures which offer avenues for inter-state and/or individual complaints to be filed. Some international institutions, e.g., UN bodies such as the General Assembly, Security Council, and Commission on Human Rights, and regional bodies, such as the Inter-American Commission on Human Rights and the Organization for Security and Cooperation in Europe, may consider human rights matters on their own initiative, without any formal complaint mechanism; this is also true of the international criminal tribunals established by the Security Council and the new International Criminal Court.

Another way of looking at enforcement and implementation options is in terms of the party which can institute a complaint. Depending on the procedure invoked, this may be a private individual or group, a state, or an international organization.

An effective system of international human rights law rests primarily on the concept of enforcement by states. In theory, when a state violates its international human rights obligations, it will be called to account by



other states. In practice, however, this rarely occurs. States are often reluctant to antagonize friendly nations by criticizing their human rights behavior; they have typically been willing to raise human rights issues only with respect to either their enemies or politically unpopular states. While exceptions may be found—such as interstate complaints filed within the European system by Ireland against the United Kingdom and by several states against Turkey—even gross violations of human rights have often been ignored. Many have argued that, in view of the political factors which affect the willingness of states to criticize each other's human rights conduct, any system that is overly reliant on state-to-state complaints as the means of enforcement is almost certain to be illusory and ineffective.

One alternative is to rely on an international organization or institution, such as the UN High Commissioner for Human Rights or the Organization for Security and Cooperation in Europe, to raise human rights issues. Of course, the issue must somehow be brought to the attention of the international organization, and this almost invariably requires that the matter be raised by a state or group of states. Once it has jurisdiction over the matter, the body may be empowered to initiate a public or private investigation or take other action to encourage respect for human rights. However, since international organizations are composed of states, political considerations will remain foremost, and an influential country or regional group often can block any effective action.

Another alternative is to permit human rights issues to be raised by private individuals or nongovernmental organizations. Where human rights obligations are incorporated in domestic law, or where domestic law links foreign policy to human rights performance, individuals or groups may raise relevant human rights issues in national courts or agencies. They also may attempt to influence national legislatures, foreign relations ministries, or other agencies that either implement human rights obligations domestically or are supposed to encourage compliance by other countries. Institutions within the government apparatus with special concerns and responsibilities regarding human rights can be helpful in providing a focus and accessible forum for such efforts. Finally, as discussed in the following chapters, some treaties establish procedures under which individuals or groups may file complaints directly with international bodies.

A third way of looking at enforcement options is in terms of the types of enforcement techniques that can be employed in an attempt to secure compliance with human rights obligations. For example, a private individual or group may seek a decision from a national court or administrative agency or an international tribunal or other body. A state may employ techniques ranging from "quiet diplomacy" to public condemnation, trade

embargoes, cessation of diplomatic relations, or perhaps even the use of force through so-called "humanitarian intervention." International organizations may similarly employ a wide range of enforcement devices, including the use of "good offices;" diplomatic persuasion; public exposure and criticism; expulsion of the offending state from the international organization; imposition of trade and diplomatic sanctions; indictment or trial of accused individuals, where possible; or, under some circumstances, the collective use of armed force.

As the twenty-first century opens, questions have arisen as to the advantages and disadvantages of various of these potential enforcement techniques. Debate continues regarding both the legality and efficacy of forcible humanitarian intervention as a means of seeking to protect human rights, particularly when employed by only one or a few states without express United Nations authorization, as was the case with NATO's 1999 bombing of Yugoslavia and expulsion of Serb forces from Kosovo. Controversy also continues over the legality and appropriateness both of individual states (such as Spain and Belgium) that claim universal jurisdiction to prosecute non-nationals for alleged international crimes, and over the increasing number of international criminal tribunals. Indeed, as of early 2004, the United States has not only actively opposed the International Criminal Court but made clear that it will vigorously resist any attempt to subject U.S. nationals to that Court's jurisdiction.

## Problems and Prospects

Despite the rapid growth of international human rights law during the last half-century, massive and shocking violations of fundamental human rights continue to occur in many countries, and progress in achieving greater respect for these rights has been sporadic and slow. Some commentators are skeptical as to the potential effectiveness of international law and institutions in promoting human rights objectives, and a number of basic questions remain unanswered.[8]

First, what is meant by human rights? Can over 190 different countries with different cultures, political systems, and ideologies, and at different stages of economic development, really hope to agree on the rights that ought to be protected through international rules and institutions, or on the priorities among them when these rights conflict with one another? Differences in perspective have emerged in the past, for example, between Western developed nations, which have generally emphasized the importance of civil and political rights, and the developing and socialist nations, which have emphasized economic and social rights. Some nations have pressed for greater recognition for "collective"



human rights, such as the right to development or peace; others believe that collective rights are ill-defined and inconsistent with individual human rights.

Today, however, there is growing agreement that human rights must be considered in their entirety. Questions about "cultural relativism" were answered in part by the 1993 Vienna Declaration, adopted by the Second World UN Conference on Human Rights, which concluded by consensus:

> All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.[9]

There has been some concern that international organizations and some NGOs label too many aspirations as "human rights" and that this proliferation may diminish the concept of human rights as a claim of individual freedom and dignity that the state must respect. At the same time, most people have welcomed the expansion of human rights efforts over the past decade to address more seriously issues of women, children, and minorities, as well as individual criminal responsibility for human rights violations.

Second, can one expect government officials to support human rights objectives and efforts impartially, even when this poses foreign policy risks, or will they only give such support selectively, when it serves what is perceived as their country's more immediate foreign policy interests? It is apparent that many nations apply a "double standard" in their attitudes toward human rights, harshly condemning violations by political enemies but ignoring equally serious violations on the part of nations with which they wish to maintain good relations. For example, critics attacked the Reagan administration's attempt to distinguish between so-called "authoritarian" and "totalitarian" regimes as, in effect, the use of such a "double standard." Other countries and regional blocs have equally problematic records of consistency on human rights; similarly, the United Nations focused its early human rights efforts principally on problems involving South Africa and the Israeli-occupied territories, while paying little or no attention to equally or more serious violations in other countries. If governments do not accept the basic moral premises of international human rights but only pay them lip service, how can international human rights law ever work?

Third, can one hope through international law and institutions to affect the ways governments behave toward their own citizens, or do the roots of repression, discrimination, and other denials of human rights lie in deeper and more complex political, social, and economic problems? And if, as some believe, humanity faces an increasingly uphill struggle against the relentless pressures of increasing population, resource depletion, environmental degradation, and economic scarcity, can one ever hope to reach conditions of economic well-being in which social competition will become less intense and human rights can flourish?

These problems must be taken seriously. It is neither realistic nor useful to pretend that international human rights law can produce an immediate change in the way human beings and their governments have behaved for millennia or to promise any quick and dramatic improvement in the human condition.

But there is some basis for optimism. Today, human rights are a part of every government's foreign policy, even if only rhetorically. Almost all former colonies have achieved independence, and apartheid in South Africa was abolished in 1994. Even when governments employ international human rights concepts hypocritically and for selfish political purposes, their actions serve to reinforce human rights principles and establish important precedents. International human rights institutions have acquired their own momentum, expanding their human rights activities in ways that governments have found difficult to curb.

At the very least, international human rights law has probably exerted some check on government actions and kept matters from getting worse—although the carnage in Cambodia, former Yugoslavia, Sudan, Rwanda, Liberia, Sierra Leone, Sri Lanka, and elsewhere demonstrates only too clearly how human rights are often forgotten when widespread violence breaks out. But if international efforts and activities can succeed in ratcheting respect for and observance of human rights gradually upwards, even if only slowly and incrementally, the game will be worth the candle.

Finally, the growing number of local and national human rights NGOs, especially in countries of the developing world and countries in transition in Eastern Europe, has significantly expanded the impact of NGO work; such groups have become increasingly active at the international level. Such activism has been facilitated by a 1996 revision to the resolution that governs the formal relationship between NGOs and the United Nations; regional and national NGOs, as well as international ones, may now apply for "consultative status" with ECOSOC and thus participate more fully in UN meetings.[10]

Certainly, the international human rights movement will continue to encounter reverses as well as advances, and dedication, persistence, and



much more work is needed to achieve the goal of bringing human rights to all peoples everywhere. Among the directions such work might take are the following:

- increasing efforts to embed international human rights norms more firmly within national legal systems and to sensitize lawyers, judges, and other officials to the relevance and usefulness of international human rights law as a tool to advance human rights within national societies;
- strengthening and providing adequate resources for existing international institutions, such as the various human rights commissions and courts and the Office of the UN High Commissioner for Human Rights;
- expanding cooperation and coordination among the various human rights institutions to avoid inconsistency and unnecessary duplication of effort;
- developing regional human rights institutions in the Arab World and Asia;
- enhancing the role and influence of NGOs involved in the promotion of human rights and increasing their access to national and international human rights institutions and processes, while increasing their accountability and transparency;
- giving increased attention to massive and urgent human rights issues, such as pervasive hunger and disease (particularly among children), widespread and deeply entrenched discrimination against women, recurrent violations of human rights and humanitarian law in international and civil conflict, and the continuing problem of refugees and internally displaced persons;
- focussing greater attention on economic, social, and cultural rights and the relationship between human rights and economic development;
- exploring the relationship between human rights and other agreed-upon international objectives, such as protection of the environment, promotion of trade, and suppression of transnational crime;
- ensuring the accountability of nonstate actors, such as transnational corporations or private armies, for complicity in human rights violations;
- devising criteria to guide forceful intervention intended to prevent or stop massive violations of human rights;
- achieving wider dissemination of human rights ideas and documentation among people throughout the world and ensuring access by individuals to national and international institutions for redress for violations;
- learning more about the root causes of discrimination and intolerance, in order to devise better ways of trying to eliminate them;

- developing better indicators for measuring and monitoring the observance of human rights and better fact-finding mechanisms and techniques;
- depoliticizing human rights questions, so as to increase the willingness of governments to address such issues fairly and on their own merits in international forums;
- ensuring that the post-2001 "war against terrorism" does not lead to unjustifiable restrictions on human rights and, in particular, the activities of human rights defenders and critics of the government; and
- persuading government officials that human rights *are* an appropriate and legitimate concern of national foreign policy, not only because support for human freedom and dignity is "decent" and "right," but also because it is in each nation's pragmatic long-term national interest to acquire the respect and friendship of other nations and to achieve a world in which people can live securely and in peace.

In many cases, the day-to-day problems involved in work in the field of international human rights law will be undramatic, and broader goals and issues may not be apparent. But practitioners are nonetheless sharing in an important and exciting enterprise, albeit one whose ultimate success remains still distant and elusive.

## Notes

1. A list of ratifications of some of the major human rights treaties is contained in Appendix E.
2. See chap 11.
3. See chap 4.
4. See chaps 3, 10.
5. See chaps 7, 8.
6. See chap 13.
7. See generally Hurst Hannum, The Status of the Universal Declaration of Human Rights in National and International Law, 25 *Ga J. Int'l & Comp. L.* 287 (1995/96).
8. These questions are discussed further in Richard Bilder, Rethinking International Human Rights: Some Basic Questions, 1969 *Wis L. Rev.* 171, reprinted in 2 *Hum. Rts. J.* 557 (1969).
9. Vienna Declaration and Programme of Action, UN Doc. A/CONF.157/23 (1993), para. I.5.
10. ECOSOC Res. 1996/31 (1996), amending ECOSOC Res. 1296.