GLOBAL GOVERNANCE, HUMAN RIGHTS & DEVELOPMENT

Amit Verma

ALEXIS PRESS
JERSEY CITY, USA

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Published by: Alexis Press, LLC, Jersey City, USA
www.alexispress.us

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First Published 2022

A catalogue record for this publication is available from the British Library

Library of Congress Cataloguing in Publication Data

Includes bibliographical references and index.

Global Governance, Human Rights & Development by *Amit Verma*

ISBN 979-8-89161-285-3

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CHAPTER 1

ECONOMIC, CULTURAL AND SOCIAL RIGHTS: ANEVALUATION OF STATE OBLIGATIONS

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ABSTRACT:
This article provides an overview of the role of States in relation to economic, social and cultural rights (ESCR) within the framework of international human rights law. Economic, social and cultural rights are enshrined in international treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), which include fundamental human rights to the health and dignity of people and communities. This review provides a perspective on the various aspects of the State's responsibilities to promote and advance economic, social and cultural development. This article begins by describing important economic, social and cultural rights, including the rights to education, health, work and quality of life. It then explores the evolving understanding of the State's economic, social and cultural responsibilities, including its duty to monitor, protect and fulfill these rights. While the duty to respect requires the state not to interfere with the economic, social and cultural interests of the people, the duty to protect requires the state to protect third parties from violating the rules. The most important obligation is the fulfillment obligation, which requires participating countries to take steps to use their resources and gradually reach the ESCR. Also, this analysis refers to the concept of making progress, stating that the State is expected to continually improve the economy, social quality and culture of the time, including its money, currency and development. In addition, the article deals with the principles of non-discrimination and equality, which are important economic, social and cultural concepts, and explains the importance of everyone benefiting from these rights without discrimination. Even if there are obstacles to economic, social and cultural success, the document reaffirms the role of international cooperation and assistance, particularly in the context of globalization and economic freedom, in identifying challenges and resources. It emphasizes that states should adopt good strategies, policies and legal frameworks to promote economic, social and cultural development, and establish mechanisms to hold the state accountable and oversee its obligations.

KEYWORDS:
Cultural Rights, Economic Rights, Human Rights, Obligations, Social Rights.

INTRODUCTION

The International Covenant on Economic, Social, and Cultural Rights (also known as the "Covenant") is the most comprehensive international human rights treaty that protects economic, social, and cultural rights (sometimes known as "ESC rights"). The UN General Assembly adopted the Optional Protocol to the ICESCR on December 10, 2008, giving the Committee on Economic, Social, and Cultural Rights ('CESCR'), an expert body that oversees the implementation of ESC rights under the ICESCR, three new roles: (i) to receive and consider individual and group communications alleging 'a violation of any of the Economic, Social, and Cultural Rights set forth in the Covenant'; (ii) to receive and consider individual and group communications alleging 'a violation of any According to Article 18 of the Optional Protocol, the Optional Protocol will enter into effect after it has been ratified by the necessary 10 States. This will disprove assertions that ESC rights under the ICESCR were

not meant to be justiciable and usher in a new age of responsibility for ESC rights abuses in international law[1], [2].

This means that, in light of the current state of international law, it is more important than ever to examine the nature and scope of State obligations under the ICESCR for which States could be held responsible under the Optional Protocol in order to provide a clear understanding of the obligations contained in the Covenant. The ESC includes the rights to work and to just and favorable working conditions, to rest and leisure, to form and join trade unions, and to strike, as well as the rights to social security, to the protection of the family, mothers, and children, to an adequate standard of living, including adequate food, clothing, and housing, to the highest attainable standard of physical and mental health, to education, to take part in cultural life, and to benefit from scientific advancement. An essential and understudied aspect of international human rights is the efficient respect, protection, and fulfillment of these rights. This is true even though the Universal Declaration of Human Rights (or "UDHR") recognized two categories of human rights: ESC rights and civil and political rights. The International Covenant on Civil and Political Rights, or ICCPR, and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) are two different but related covenants that the UN ratified to turn the articles of the UDHR into obligatory legal responsibilities[3], [4].

In comparison to the 164 States party to the ICCPR, there were 160 States parties to the ICESCR as of March 2009. The UDHR and the two covenants make up the foundation of international human rights law. This chapter examines three ESC rights-related issues, broken down into three sections: general State obligations (Section 2); extraterritorial application of ESC rights (Section 3); and non-derogability of ESC rights (Section 4). Because the Covenant addresses this group of rights more thoroughly than other existing human rights instruments, it is the subject of particular attention. The following issues are especially covered in this chapter. The first question is: What are the responsibilities of States parties to the ICESCR under ICESCR Article 2(1)? Second, are States parties' human rights obligations under the ICESCR limited to people and groups on their own territory, or can a State be held accountable for the deeds and inactions of its agents that have an adverse impact on people and groups gradually exercising their ESC rights or occur outside of its borders (for instance, to people and groups that are not on its territory but are under its jurisdiction)? Thirdly, would the ICESCR completely apply during times of war, hostilities, or other types of public emergencies?

The remaining concerns were chosen because, despite their importance, neither the Covenant nor many studies have directly addressed them in connection to ESC rights, with the exception of the first issue, which was included to provide a basic overview of the Covenant. This chapter seeks to show that the ICESCR imposes clear legal obligations on States parties with regard to human rights, noting that while the Covenant calls for "progressive realization" and acknowledges the limitations imposed by "available resources," it also imposes a number of obligations that take effect immediately (such as the duty to take action and end discrimination within the enjoyment of ESC rights). It points out that as domestic case law on ESC rights has grown, it is obvious that these rights have legal standing, and states should make sure that this is the case in reality at the national level[5], [6].

DISCUSSION

On a global scale, it was long overdue for the General Assembly to adopt an Optional Protocol to the ICESCR on December 10, 2008, allowing for individual and group communications, inter-State communications, and an inquiry procedure in cases of grave or persistent violations of any ESC rights. This chapter also makes the case that any State organization to the ICESCR may be found to have violated the ICESCR's provisions if it acts extraterritorially in relation to a person who is under its power, effective control, or authority,

as well as within a region over which it has effective overall control. This chapter concludes by pointing out that the ICESCR does not contain a provision allowing derogations in cases of public emergency, indicating that the Covenant generally remains in effect during times of armed conflict, war, or other situations of public emergency and that, at the very least, States are not permitted to deviate from the Covenant's minimum core obligations. Clarifying the aforementioned points might encourage States to take their commitments under the Covenant to protect human rights more seriously. In order to strengthen an international legal framework of accountability for violations of ESC rights, whether inside or outside of a State's borders, regardless of whether they occur during peacetime or in times of armed conflict, war, or other public emergency, it may also help to develop the necessary political will among states parties to the ICESCR required for the signature and ratification by States of the Optional Protocol. A similar development will enhance the international legal protection of ESC rights and help States adhere to their legal commitments under international human rights law[7], [8].

It is interesting to note that although certain States have expressed concerns and declarations against the Covenant, none have ever done so under Article 2(1) ICESCR. It is important to keep in mind that since the Covenant is an international treaty, States are required to uphold their commitments to protect human rights (pacta sunt servanda) in good faith. Additionally, the Covenant must be "interpreted in good faith in accordance with the ordinary meaning to be given to the treaty terms in their context and in light of its object and purpose" as a human rights instrument. In cases when the conventional meaning leaves the meaning "ambiguous or obscure" or "manifestly absurd or unreasonable," interpretation may be augmented by reference to the preliminary work (travaux préparatoires) of the Covenant.

It is difficult to determine whether a State has complied with or violated its general obligation to "take steps to the highest of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant" for a specific individual because the language of Article 2(1) ICESCR is so broad and full of qualifications. When determining whether a particular State's resources were such that it should have given a petitioner access to a doctor or hospital treatment (in the context of the right to health) or an educator or school (in the context of the right to education), for instance, such difficulty can arise in the context of individual and collective communications. However, groups of international law experts who adopted the Limburg Principles on the Implementation of the ICESCR in 1986 and the Maastricht Guidelines on Violations of Economic Social and Cultural Rights in 1997 examined the nature and scope of the States parties' obligations under the Covenant, including the provisions of Article 2(1) ICESCR above, as well as the nature and scope of ESC rights violations and appropriate responses and remedies[9], [10].

The Limburg Principles and Maastricht Guidelines may serve as "a subsidiary means" for the interpretation of the Covenant as "teachings of the most highly qualified publicists of the various nations" under Article 38(1)(d) of the Statute of the International Court of Justice, despite the fact that they are not legally binding in and of themselves. Aside from a few suggestions denoted by the use of the word "should" rather than "shall," the participants who accepted the Limburg Principles thought they "reflect[ed] the present state of international law." The Maastricht Guidelines, in the opinion of those who adopted them, "reflect the evolution of international law since 1986."

The CESCR has also outlined the specifics of State duties and individual/group rights under the Covenant in various General Comments and Statements. By May 2009, the Committee had approved 20 General Comments, of which 7 dealt with other Covenant provisions and 13 with substantive rights. Additionally, the Committee has released 16 Statements on several important topics pertaining to ESC rights, such as poverty, globalization, intellectual property, and the global food crisis. General Comments and Statements may have a

persuasive impact by laying forth interpretative stances that State practice may coalesce behind, even though they are not legally enforceable. No State has ever officially objected to the General Comments or Statements, which seems to indicate that States generally accept the Committee's Comments and Statements. It is now necessary to determine what human rights responsibilities emerge from Article 2(1) ICESCR, taking into consideration the Covenant's intent and purpose, the usual meaning, the preparatory work, and relevant practice. This was helpful in establishing the context in which the Covenant should be construed. By using this strategy, the duties listed in Article 2(1) ICESCR are triggered[11], [12].

According to General Comment 3, Article 2(1) imposes an "obligation of conduct" (i.e., action active or passive to follow, or abstain from, a given conduct to realize the enjoyment of a particular right) to start making steps right away in a manner that consistently and steadily advances towards the full realization of ESC rights. The need to 'take measures' is unqualified and unrestricted by any other factors. Social, cultural, or economic factors inside the State cannot be used to excuse a violation of this commitment. In addition, a State is required under Article 2(1) ICESCR to take persistent action moving forward without taking any intentional steps backward. The actions conducted should be focused on fulfilling the primary "obligation of result" (to meet certain goals or standards), which is to "progressively realize the full realization of the rights guaranteed" in the Covenant. For instance, the requirement of behaviour in relation to the right to primary education would include adopting and carrying out a plan of action to guarantee that kids attend primary schools. Children must learn to read and write in order to fulfill their commitment to produce results.

Significantly, efforts must be "deliberate, concrete, and targeted" in order to fully realize Covenant rights, and they must be "taken within reasonably short time after the Covenant's entry into force for the States concerned." Some of the actions that States parties are expected to perform are of an urgent character, particularly when it comes to negative obligations, which primarily call for non-interference and have little direct resource repercussions. The ban of discrimination fits under this category, as seen below. Other actions may be implemented gradually over time and may have major direct resource effects, such as those needing mostly positive commitments. This difference is crucial in establishing whether the State is complying with the Covenant duties or not, or whether it is unwilling or unable to do so. Non-compliance or breach of an obligation may only occur if compliance is required at a certain time. States must generally adopt two different sorts of measures: legislative and non-legislative. Legislative actions involve not just passing new legislation but also having to alter or remove any existing laws that are blatantly at odds with the Covenant.

Legislative action is without a doubt necessary to defend all human rights, including ESC rights, since it gives a solid foundation on which to uphold these rights and enforce them when they are violated. To counteract de jure discrimination, such as that against women, minorities, children, and people with disabilities, legislation is especially important. In this regard, the Committee on the Elimination of Discrimination Against Women (the "CEDAW Committee") has urged States with anti-women laws to expedite the law review process and to effectively collaborate with Parliament to ensure that all anti-women laws are amended or repealed. Although law is necessary, it is not sufficient in and of itself to realize ESC rights. Therefore, in addition to law, additional "appropriate means" must be used to accomplish the desired outcome.

These other "appropriate means" include the provision of judicial or other effective remedies, administrative, financial, educational, or informational campaigns, and social initiatives. In order to ensure that States and non-State actors are held accountable, it is necessary to put in place proper measures of redress, or remedies to any injured person or group. This includes establishing ESC rights as a matter of national law.

Utilize "the maximum available resources," when required

A State party shall use "the maximum of its available resources" in the actions it takes to gradually realize the rights mentioned in Article 2(1) of the ICESCR. Chapman stated that the analytical criteria for monitoring are "considerably complicated" when examining progressive realization in the context of resource availability. Applying this need to assess State compliance with the full utilization of all available resources presents two practical challenges. The first step is figuring out what tools are "available" to a certain State in order to implement its substantive rights under the Covenant. Determining whether a State has used these resources "to the maximum" is the second challenge. It has been argued that the phrase "available" gives the State too much "wiggle room," making it difficult to define the scope of the progressive responsibility and determine when a violation of it occurs. Nevertheless, it is evident that the Covenant does not impose an unreasonable requirement, and a State is not compelled to go beyond what its financial capacity would allow. The inference is that high-income States, especially the least developed States, would be held to higher standards than low-income States.

This implies that the fullest possible use of the resources available will determine both the obligation's substance and the pace at which it is fulfilled. The term "resource availability" does not just refer to resources that are managed by or passed through the State or other public bodies; it also refers to social resources that can be mobilized through the broadest possible participation in development, as is required for the realization of ESC rights by every individual. In this context, "available resources" refer to resources that are accessible throughout society as a whole, "from both the public and the private sector." Instead of providing all of these resources out of its own funds, the State must mobilize them. Resources that may be accessed also come from international collaboration and aid, as is seen below. States should show that the available funds are handled fairly and efficiently to provide necessities and important services.

The Committee mandates that States fight corruption that has a detrimental influence on the availability of resources in order to achieve this goal. States should also show that they are creating the social resources necessary to fulfill ESC rights. The realization of human rights, particularly ESC rights, must be accorded "due priority" in this regard, even if States often have a "margin of discretion" in how to use the resources at their disposal. Therefore, it is crucial for the State to allocate the available resources wisely in a manner that ensures the most vulnerable are given priority. Human rights typically merit primacy above all other reasons; hence the State must take into account all domestic resources when deciding how to employ them. The CESCR has created several helpful indicators in its Concluding Observations that may be used to assess a state’s compliance with the need to employ the "maximum available resources." One way to measure this is to look at the portion of the national budget that is allotted to funding things outside the Covenant (like debt payments or military spending) vs sectors covered by the Covenant (such health, education, housing, and social security).

CONCLUSION

Consequently, analysis of the State's economic, social and cultural responsibilities demonstrates the complexity and diversity of these rights in a global context. Economic, social and cultural rights are basic human rights covering many issues such as access to education, health services, health services and quality of life. States play an important role in promoting and protecting these rights, as outlined in various international agreements, including the International Covenant on Economic, Social and Cultural Rights. First of all, it is true that economic, social and cultural achievements are not only moral but also promote health and human development. States have a responsibility to ensure that their policies and actions, including their available resources, are aimed at the fulfillment of these rights. This

principle of progress recognizes that achieving economic, social and cultural rights will take time, but it stresses the importance of taking action if these rights are to succeed. Furthermore, the analysis of the State's obligations shows the connection of economic, social and cultural rights with other human rights such as civil and social rights. Political Rights. States should recognize that a positive approach to human rights is necessary to ensure justice and equality. This means that the government should not only consider financial, social and cultural policies alone, but also consider their impact on other aspects of human rights etc.

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CHAPTER 2

EXTRATERRITORIALITY: UNIVERSAL HUMAN RIGHTS WITHOUT UNIVERSAL

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ABSTRACT:
The concept of extraterritoriality in the context of inclusive human rights is difficult and disturbing. The theory examines the complexity of international human rights treaties and their proposals for the path to unification of human rights. It explains how states, international organizations, and non-state actors have explored various measures of their obligations beyond the limits of their claims. This study begins by introducing the formation of all human rights and their inevitable problems, and by addressing human rights teachings that apply to everyone, wherever they live. Next, the evolution of the state's roles and responsibilities in foreign affairs, including the activities of resistance, displacement, and action by transnational organizations, is examined. Also, the theory demonstrates the influence of the state on human rights and includes the testing of the borders of foreign lands and the problems of human rights laws applied in the international world. It also addresses the role of international decisions, international legal standards and regional agreements in the formation of international human rights situations.
KEYWORDS:
Extraterritoriality, Human Rights, International Law, Sovereignty, State Responsibility

INTRODUCTION

Since the United Nations Charter was adopted in 1945, the idea of universalism has played a significant role in international human rights discourse. The 1948 Declaration's designation as the Universal Declaration of Human Rights (or "UDHR") underscores the significance of this idea. Additionally, the prominence of the non-discrimination clauses in the UN Charter, the UDHR, and all subsequent human rights treaties and declarations is additional proof of the importance of the enjoyment of human rights by all people without prejudice. The International Court of Justice's ('ICJ') finding that the practice of apartheid was a blatant breach of the objectives and tenets of the UN Charter served as further confirmation of this. However, the idea of universalism has been relatively one-sided in the creation of human rights legislation and its application via national and international bodies: it concerns human rights enjoyment, but not human rights responsibilities. According to international law, all people worldwide are thought to have the same rights, but the obligation-holders (often nations) do not have the same responsibilities with respect to people worldwide. Common understandings of human rights duties hold that a state's liability for human rights abuses relies not only on the state's acts, but also on the location of those actions and/or the nationality of the victims. However, a number of participants in the global human rights community have recently questioned this perspective on commitments [1], [2].

Academics, decision-makers, non-governmental organizations ('NGOs'), and international organizations have started to dispute the legal reasons for this strategy as well as its rationale (as will be covered below). The scope of international human rights duties has also been a hot topic in recent years in a sizable number of international court cases. As a consequence, the revised strategy is to examine whether governments have duties in relation to the human rights impacts on people in other nations as a result of their international cooperation or foreign policy actions and omissions. There are several causes for this change in focus on these commitments. The 'globalisation' phenomena, taken in its broadest meaning, is one of

the more apparent causes. The growing international engagement between nations, between nations and international organizations, and between nations and private organizations, such as multinational corporations ('MNCs'), may have beneficial or bad consequences on the human rights situation outside of the territorial state's jurisdiction [3], [4].

Nation states are less able to control events within their own borders and steer development in ways that they see fit as a result of the more extensive international regulation of financial matters and trade as well as an emphasis on specific economic models that must be followed in order to receive international assistance. A debate over whether states have obligations that extend beyond their national borders and take into account issues with human rights brought on by the actions or inactions of one state on the territory of another state has arisen as a result of the increased interaction and interdependence of states in the international community. The issue at hand is whether the foreign state violates international law if its deeds or inactions lead to human rights abuses elsewhere. Extraterritorial duties, transnational obligations, international obligations, and global obligations, to name a few of the more popular, have all been used to discuss the issues at hand in this argument. The major goal of this debate is to address the issue that may arise if one state behaves in a way that undermines the human rights of persons in another nation, even if these phrases don't necessarily refer to the same phenomena. I'll use the phrase "extraterritorial obligations" throughout this chapter [5], [6].

DISCUSSION

It is important to quickly explore the nature of extraterritorial duties before going through the legal basis for them and the present barriers to their execution. The concept of what human rights duties are has evolved over the last 20 years and has gotten more complex and nuanced, as was hinted at in the opening. The language in the various human rights treaties and the jurisprudence from human rights courts and committees have both confirmed that such an approach is too restricted. Initially, it was believed that human rights obligations were primarily negative (to refrain from interfering with individuals' enjoyment of their human rights). In fact, it is now widely acknowledged that responsibilities to uphold human rights have both a negative and a positive side, as governments are obligated to guarantee both the enjoyment of rights and to abstain from doing so. In addition to civil and political rights, this also applies to economic, social, and cultural rights. Furthermore, a shared concept of three levels of commitments the duty to respect, protect, and fulfill has formed based on the writings of Henry Shue and Asbjrn Eide.

The UN Committee on Economic, Social, and Cultural Rights asserts that extraterritorial (international) duties are subject to the same standards.

The duty to respect indicates that a state must uphold the human rights of those living in another nation while collaborating with them or engaging in foreign policy (including military operations) that affects them.

States have a responsibility to make sure that private parties (including private corporations) over which they exert (jurisdictional or other) authority do not infringe the rights of people in other states since the need to safeguard relates to the actions of private parties. Finally, the duty to comply compels governments to do the necessary steps to ensure the full realization of rights in other states.

The last and most contentious aspect of extraterritorial responsibilities is this one. It should be noted that the Special Rapporteur on the Right to Food, Jean Ziegler, introduced the concept of "support fulfillment" of rig without getting into the specifics of the debates surrounding this level of extraterritorial obligation, the issues that it may raise in terms of the sovereignty of the home state of individuals facing human rights problems, as well as the practical problems of resources available for full realization of all human rights in foreign states [7], [8].

Legal basis for extraterritorial commitments relating to human rights

Even while extraterritorial human rights duties of nations have often been disregarded, this does not mean that such commitments are unfounded in the law. International courts and committees have established that extraterritorial human rights duties are based on international human rights law. It should be observed that the law in this area is not definitive, that various international organizations have adopted different methods, and that even the same institution may not seem to apply extraterritorial responsibilities consistently.

Regarding the issue of extraterritorial human rights duties, the presence of the statement that the organization's aim is, among other things, to "achieve international co-operation" in relation to the substantive substance of the remaining paragraph is not noteworthy. The UN's members will be required to contribute to this collaboration, which is intended to address issues of an economic, social, humanitarian, and human rights nature, if there is to be any success in achieving international cooperation. Article 1's premise of international cooperation is disregarded if United Nations members assert that human rights duties are exclusively territorial. Furthermore, according to Articles 55 and 56, the UN should work to advance "universal respect for, and observance of human rights and fundamental freedoms for all," and that it shall do so by "joint and separate action in co-operation with the Organization." When the global promotion of human rights is considered, these publications are often cited in UN texts. However, the responsibilities resulting from these two sections have not been widely interpreted until lately [9], [10].

It is detailed in an explanation of the legislative background and interpretation of Article 56 that the language is a compromise between ideas put forward by Australia and the United States throughout the writing process. Australia suggested that "all UN members should pledge to take action, on both national and international levels, for the purpose of securing for all peoples, including their own, such goals as improved labor standards," and so proposed a formulation in which the pledge would mean that the "members would both co-operate internationally and act within their own countries to pursue the economic and social objectives of the Organization, in their own way and wi The US objected to this, arguing that the Charter could only be used to support collective action and that it could not compel a country to take independent action since doing so would violate the member nations' domestic sovereignty.

Simma contends that Article 55(c) includes substantive requirements with respect to human rights, and as a result, it may be said that Articles 55 and 56 together impose obligations to take steps to further respect for human rights. This view holds that nations have a clear responsibility to act both individually and collectively to advance respect for human rights. It is noteworthy to note, however, that the United governments' resistance had nothing to do with the international commitments and was instead based on the argument that the UN Charter could not dictate what governments should do on a national level. It is rather odd that the international (or extraterritorial) requirements have become the contentious ones given that domestic human rights obligations have now almost universally achieved agreement.

However, the definition of "jointly" under Article 56 is not entirely clear. Simma doesn't go into great detail on the definition of "joint" in his commentary on the UN Charter. Nevertheless, the word "jointly" might refer to action taken via the United Nations in acknowledgment that the organization would not be able to achieve its goals without a shared commitment from its members. This would be a realistic approach to carry out the organization's mission. The notion that "joint action" in Article 56 means just this appears, however, to be overly limited. According to the text, this collaborative effort must be carried out "in cooperation with the organization." One would have anticipated the phrasing to reflect this, for example by stating "joint and separate action through the United Nations," if it were meant to indicate a specific commitment to further respect for human rights through the

activities of the UN. However, the phrase was not used. Instead, a broader definition is utilized, and "joint" is understood to imply both a duty to work with the United Nations to advance respect for human rights as well as an obligation to act jointly to do so [11], [12].
The promotion of the respect for human rights domestically may only be addressed by one of the states acting "jointly" at any given time; all other states participating in the joint action will logically be addressing respect for human rights in another state. Additionally, Article 56 calls for "separate" action in conjunction with the UN in addition to cooperative action. These phrases bolster arguments for human rights duties for individual governments outside national boundaries when taken in combination with the clause in Article 55(c), which asks for universal respect for human rights. It is argued that because the article uses the term "universal" rather than "domestic," this wording has extraterritorial implications and strengthens the non-discrimination principle of the Charter by stating that states must work to uphold human rights not only for their own populations but also for all people. The major sources of human rights duties, in addition to the UN Charter, are the several specialized human rights treaties. Extraterritorial responsibilities are given particular meaning in some of these treaties, while others have been understood to include them even if they are not expressly stated in the treaty language.
The discussions that occurred in the 1950s and 1960s may be better understood by going through some of the Article 2(1) ICESCR's drafting history. There was considerable debate about whether to include the section about "international assistance and cooperation" in the Article, as has been noted elsewhere. However, there was no clear consensus over the objectives of the drafting parties after talks in the Third Committee of the General Assembly and the Commission on Human Rights. The need for international collaboration and help to realize the rights guaranteed by the Covenant, however, seemed to be pretty obvious. The nature of this collaboration and whether the additional supply of "especially economic and technical" was too constrained were the topics that received considerable discussion. The original (and later) general duty section of the Covenant listed international cooperation and aid as one of the measures of achieving the rights. It has turned out to be one of the most contentious sections of the treaty, nevertheless, more than 40 years later.
Article 32 of the CRPD, the second item on international collaboration, emphasizes "the importance of international cooperation and its promotion, in support of national efforts for realizing the purpose and objectives of the present Convention." This is the same idea that Ziegler described as a "obligation to support fulfillment." It then calls for actions to encourage and support capacity building, to facilitate research collaboration, to give technical assistance, and to transfer technology. It also urges the inclusion of people with disabilities in international development programs. The provisions of this article are without prejudice to each State Party's commitments to uphold its responsibilities under the present Convention, the article's conclusion states. This last clause is particularly interesting because it addresses some of the worries expressed by those who oppose extraterritorial obligations, namely that states (and particularly poorer states) will feel relieved of their treaty obligations because they can argue that they need outside funding to implement the rights in the treaties, which will let them feel free of their obligations. This clause emphasizes the territorial state's fundamental responsibility to uphold its commitments and carry out its implementation.
It is interesting to note that the particular treaties that have been mentioned so far all speak to economic, social, and cultural rights in regard to extraterritorial commitments. The logical conclusion from this is that only that portion of international human rights legislation is subject to extraterritorial human rights duties. Such an interpretation, however, would not be consistent with how international human rights accords are now understood. Indeed, the ICJ, the UN Human Rights Committee, the European Court of Human Rights, and the Inter-American Commission on Human Rights have all confirmed that international human rights

treaties protecting civil and political rights contain obligations for the states parties that go beyond the national territory.

These organizations also monitor the implementation of the International Covenant on Civil and Political Rights. This is true despite the fact that several treaty sections mandate that the states parties uphold and defend the rights that exist on their soil and/or within their authority. In the Namibia Opinion, the International Court of Justice (ICJ) determined that South Africa had violated its international duties under the UN Charter by instituting an apartheid regime in the neighboring state.

The Court nonetheless decided that South Africa had violated its responsibilities notwithstanding the fact that it had engaged in its actions outside of its own borders. Additionally, the ICJ took into account the applicability of responsibilities resulting from human rights treaties that Israel has signed in its advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. The ICCPR was found to be applicable "in respect of acts done by a State in the exercise of its jurisdiction outside its own territory," according to the Court.

CONCLUSION

There's a de facto distinction between the proposed all-inclusive delight of human rights and the acknowledged widespread commitments of human rights. The suggestion here is clearly that in case we are supporting all-inclusive delight of human rights; it does not make sense to restrain the security of human rights to national borders. This chapter has illustrated that there are noteworthy lawful establishments for extraterritorial commitments in current universal human rights law. The drafters of human rights arrangements from the 1940s onwards have been mindful of the require for international participation within the execution and the advancement of human rights, and this consistently amplifies to the obligation of states for their claim conduct that has antagonistic impacts on individuals' human rights satisfaction in remote states. There stay, be that as it may, impediments to overcome to accomplish common acknowledgment for these commitments. These impediments are of both a lawful and a political nature. States are hesitant to acknowledge what they conceive of as an expansion of their human rights obligations. This political deterrent is likely the foremost imperative one to address, as with a moved forward political climate, the (seen) legitimate impediments would be simpler to address. It is additionally vital to create an understanding of what extraterritorial commitments suggest. A few disarrays almost their extent exists, and encourage work on the substance of the obligations and their impediments still must be carried out. For occasion, the commitment to supply help, and how much, remains questionable.

Besides, the relationship between the national and the foreign states' obligations may require advance clarification. All things considered, on the off chance that states take obligation for the impact of their activities, whether committed at home or overseas, instead of attempting to elude duty, this will be a enormous step forward. As well much exertion has been put into attempting to sidestep obligation, or to create lawful escape clauses to do so, instead of to reply to the basic logic of human rights: that we are born free and rise to in respect and rights.

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CHAPTER 3

NON-STATE ACTORS AND INTERNATIONAL HUMAN RIGHTS LAW

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ABSTRACT:
International human rights law increasingly emphasizes the perceived role of non-state actors in shaping human rights outcomes. This article briefly examines the relationship between non-state actors and international human rights law and explores the challenges and opportunities arising from their interactions. Non-state actors such as international organizations, some powerful groups, international organizations and NGOs now have a significant impact on human rights. enjoy human rights. Its effects can be positive through the promotion and enforcement of human rights, or negative through the abuse of power or the spread of injustice. This theory addresses important issues related to the organization of non-state organizations. Look for signs in universal human rights law. It looks at how international law has evolved to include these actors and highlights the growing awareness of their obligations and responsibilities. Key topics include the application of human rights instruments to non-state objects, social structures and relations, international law, and sections on individuals. The state with the symbols is not responsible for human rights violations. In addition, the report highlights the complex issues arising from the overseas activities of non-state actors and examines policies in various contexts, including responsibility for participation, torture and response to human rights violations. Global Supply Chains' Report on Workers' Rights.

KEYWORDS:
Civil Society Organizations, Corporations, Extraterritorial Obligations, Human Rights Defenders.

INTRODUCTION

It is illegal for non-state actors to violate international human rights legislation. Regardless of how severely their activities may affect the human rights of others, any organization, group, or person that is not a state cannot violate international human rights law. Due to the fact that international human rights legislation was developed with states and states alone in mind, this unsettling position exists. This chapter will look at the rationale for this legal stance and present the steps taken, particularly by the organizations in charge of monitoring compliance with international human rights treaties, to address non-state actors that violate human rights. It will also suggest methods to go ahead, both theoretically and practically, to guarantee that human rights are better protected, whomever the offender may be [1], [2].

Unstated parties

For those players in the international legal system who are not nations, numerous classifications have been put forward. The European Union defines non-state actors as those who are involved in the private sector, economic and social partners (including trade union organizations), and civil society "in all its forms according to national characteristics." Some of these definitions have focused on a specific context, such as internal armed conflict or trade. This concept positions non-state entities in an international perspective by addressing the cross-border component of activity. However, it has a drawback in that it doesn't take into account people or international (inter-state) organizations, both of which may have a big influence on human rights. It is also excessively wide in that a human rights violation need not be transnational in order for international human rights law to be in effect, even though international law often needs actors to engage on the international level [3], [4].

Therefore, for the purposes of this chapter, "non-state actors" refers to any people, teams, and organizations working within or outside of national borders (whether or not they are made up of states); in other words, it refers to all actors other than states. This term is intentionally broad to reflect the variety of actors who may affect human rights. However, it is still problematic since it categorizes these players based on what they are not—non-state actors. This is a concept that has been "intentionally adopted to reinforce the assumption that the state is not only the central actor, but also the indispensable and pivotal one around which all other entities revolve," according to Philip Alston. This state-centered perspective is a common challenge in international law. Despite this challenge, the term "non-state actor" will be utilized throughout this chapter since it is one that is often used in the context of international law [5], [6].

DISCUSSION

The majority of individuals encounter non-state actors often in their everyday lives. Indeed, despite the state being a distant presence, many individuals throughout the globe will be profoundly impacted by their local community leaders, social and religious hierarchies, and employers, as well as those who may provide protection or violence. These actors have the ability to violate other people's human rights, and they often do. Particularly among these players are terrorists and armed resistance groups as well as businesses, governments, and private citizens. A few instances of non-state actor activities that have an influence on human rights will be offered here, but the goal of this chapter is not to provide a series of in-depth case studies. Other chapters in this book include a lot more information. Today, the bulk of armed conflicts are domestic, some of which have lasted for a very long time, and almost all nations are confronted by terrorist or armed opposition organizations. The events of September 11, 2001 in the United governments emphasized that this violence is not restricted inside territorial boundaries. Many European, South American, African, and Asian governments are acquainted with violence from these organizations, frequently on a daily basis. Most states are affected by corporate activity, particularly that of multinational companies (or "TNCs"). Many states are affected negatively by corporate activity, such as when child labor is used or when environmental harm lowers living standards. There is growing evidence that multinational institutions, like the World Bank, the multinational Monetary Fund, the World Trade Organization, and even those United Nations bodies that are supposed to promote human rights, have a harmful influence on such rights [7], [8].

The Law of International Human Rights

Despite its complexity and breadth, international human rights legislation only imposes direct legal responsibilities on governments. Any breach of a person's rights under international law is the exclusive responsibility of the state, according to all human rights treaties and prevailing international law. Members of the state's executive, legislature, judiciary, armed forces, police, and security services are a few examples of public or state officials. If these officials "acted, at least apparently, as authorized officials or organs, or that, in so acting, they used powers or measures appropriate to their official character," then the state is liable for their actions, even if they were taken outside the bounds of their apparent authority. These principles of state accountability are widely acknowledged to apply to international human rights law. Certain fundamental parts of the human rights concerns that were before the human rights treaty bodies had the broad principles of state accountability applied to them, both formally and, more often, implicitly. The actions of non-state actors, in contrast, are not often linked to the state. The International Law Commission, however, identified four key scenarios in which the state can be held responsible for the actions of private or non-state actors, leading to international liability in cases where an international agreement (such as a human rights treaty) has been broken.

First, if a person or organization was engaging in aspects of governmental activity, the state would be liable for those actions. Second, a state would be liable for the deeds of a person or thing that was operating in accordance with the state's orders, directions, or control. Third, if a state adopts or recognizes another state's action as its own, it may be held internationally liable for that action. Fourth, a state may also have international responsibility if it participates in the non-state actor's activities or neglects to take reasonable precautions to limit the consequences of such behavior. Each time, the state is held accountable for the non-state actors' activities, which are subsequently classified as state actions and no longer qualify as non-state actions. Non-state actors are seen as if their own conduct cannot infringe on human rights or as if governments can and do exert complete control over all of their activities. As a result, it seems that international human rights legislation has produced a silence about the nonstate actors themselves, excluding a significant proportion of human rights crimes from its direct protection. The views of individuals whose rights are being infringed by non-state actors do not seem to be heard by international human rights legislation. It makes silences acceptable [9], [10].

International Human Rights Law Development

The international human rights treaty monitoring organizations are aware that non-state entities do violate human rights, despite the seeming restrictions of international human rights legislation. They have made an effort to increase the likelihood that non-state actors that engage in human rights violations would be held accountable under international human rights law. The Inter-American Court of Human Rights examined the universal requirement on governments to exert due diligence to avoid human rights breaches against all individuals inside the state, which was a significant step in the Inter-American human rights system.

Similar to this, the European Court of Human Rights has ruled in a number of cases that the state's security forces' failure to protect civilians during internal armed conflict and the inadequateness of follow-up investigations by the state amounted to a violation of the ECHR by the state. The Court has gone further to rule that the ECHR was breached when the state did not provide a kid who had been caned by his stepfather appropriate protection. Although it was determined that the state had no control over the caning, it did have power over its national legislation, and as a result, it had a duty to make sure that the kid would be safeguarded by the law from the stepfather's conduct. The state failed to safeguard the kid and thereby violated its international human rights duties since the national legislation permitted "reasonable chastisement," which led to the stepfather being found not guilty under UK law.

The international responsibility of the state to take domestic action to guarantee that all individuals within its jurisdiction abide by its human rights commitments is the legal basis for this series of judgments. In fact, every significant universal and regional human rights treaty requires state parties to pass laws or take other actions to "ensure" or "realize," whether at once or over time, the rights outlined in the treaty. Since every state has ratified at least one of the main treaties, every state is subject to this requirement. Therefore, it is believed that a state has a duty to protect (or to conduct due care) in order to stop human rights breaches by everyone within its authority. To conduct fact-finding, criminal investigation, and, perhaps, prosecution in a transparent, "accessible and effective manner" and to give redress, a state is under a positive responsibility that requires significant public resources [11], [12].

Therefore, it is clear that the monitoring organizations for international human rights treaties have achieved significant, powerful advancements in expanding the duties on governments to defend persons under their authority from non-state actors. With the identification of the perpetrator of the human rights violation not having to be a state or a state official for a breach of international human rights law to be established, this has significantly improved safeguards for all persons. However, in order to apply this interpretation of the human rights treaties to non-state actors that violate human rights, these authorities sometimes engage in a

type of legalized imagining. In each case, it was determined that the state itself had broken one or more of the international covenants relating to human rights, not a non-state actor. In accordance with international human rights legislation, non-state actors are no longer subject to any direct legal duties. As a result, nonstate actors are not exposed to the full force of international human rights law. As will be seen in the next section, this viewpoint has essentially mirrored a specific and constrained conceptual approach to human rights.

Ideas On Human Rights

Since 1945, two pillars have served as the main basis for the growth of international human rights legislation. The Universal Declaration of Human Rights (or "UDHR") was ratified in 1948 as part of the United Nations' efforts to promote human rights, which was one of the organization's first acts. All subsequent international human rights agreements reaffirm the UDHR as their foundation. The intellectual underpinnings of the defense of human rights served as the other cornerstone. For instance, the ICCPR states that "all members of the human family" have equal and unalienable rights. ..These treaties acknowledge that the philosophical basis of human rights predates the formulation of human rights law in the treaties and that human rights are not created by law. Fundamental human rights, according to the African Charter of Human and Peoples' Rights (ACHPR), "stem from the attributes of human beings."

The nature and philosophical underpinnings of human rights are a topic of substantial discussion, which will not be covered here. Instead, the emphasis in this article is on how a specific feature of the notion of human rights has been incorporated into international human rights legislation. Human rights have been conceptualized by international human rights legislation as exclusively pertaining to the relationship between the person and the state. They were seen as a binary opposition between the person and the state, with the person only being regarded as "rights-bearing" in respect to the state. As a result, only the state and the person have rights against each other, and the duties of the state determine who each individual is.

This is a highly constrained and constrained understanding of the idea of human rights. Many academics have observed how, despite the model's limited applicability overseas, this construct of the state and the person is produced as an ideal of the centralized European or Western type of the state and of an independent self-interested individual. Dianne Otto has shown how this formulation marginalizes other experiences, notably those of women and people with communitarian traditions, and perpetuates the idea that certain behaviors are "private" and hence exempt from the application of international human rights legislation. Due to the human rights movement's narrow emphasis, particular experiences are given legal privileges, and claimants are required to comply with stringent legal requirements.

International human rights legislation may adopt a more expansive conceptual framework and a more accurate perspective of human rights abuses committed by non-state actors. There have been hints that international law may evolve to take non-state actors' acts into consideration. For instance, the Security Council declared that terrorist acts, methods, and practices are contrary to the goals and principles of the United Nations and that knowingly supporting, organizing, and inciting terrorist acts is also contrary to those goals and principles. This was in response to terrorists' actions that, among other things, violate human rights. This assertion makes no direct connection between governmental commitments and terrorist operations. Instead, it shows that terrorist acts are against international law in and of themselves. The Resolution must be arguing that acts of terrorism in and of themselves give rise to personal duties since it makes no mention of crimes against humanity or any other recognized instances of personal accountability under international law.

As a result, some non-state actor behaviors (terrorist behavior) violate international law and, it must be presumed, subject such non-state actors to duties related to international human rights, among other things. Additionally, the evolving idea of a "responsibility to protect,"

according to which governments have a duty to take action when there are breaches of international humanitarian law, may take into account circumstances in which non-state actors are the ones responsible for the violations.Similar to how they have decided to behave in regard to international criminal law, states have the ability to hold non-state actors directly accountable for abuses of human rights. This modification could be made by adding an optional protocol to the existing treaties, but many states and non-state players are likely to oppose this, not the least because some of these non-state entities have strong comparative economic and political clout with the state. Some non-state actors would be willing to accept this; for instance, taking such action might provide armed opposition organizations some international legitimacy if they also accepted certain obligations under international law. States should investigate the possibility of holding non-state actors jointly liable for any of their actions that infringe human rights in the interim, similar to how joint responsibility works in certain national legal contexts.

In such situation, it would be crucial to make sure that the state maintained primary accountability for upholding international human rights legislation so that it would continue to bear direct responsibility for all individuals within its control. Such changes would be in line with a clearer understanding of the international legal system, in which players are not only states. Nonstate actors do contribute to the formation, implementation, and enforcement of international law; as a result, they need to be subject to legal consequences under international law for activities that violate it. Additionally, this should improve the efficacy and validity of international law. In light of the fact that "there is no closed list of duties which correspond to the right," it is compatible with the explanation of the wide notion of human rights above. ..It is feasible to envision and design an international human rights law system where non-state actors have direct responsibilities for human rights abuses. This system would be founded on the idea that new duties might be created based on an existing right as a result of changing circumstances. This calls for a shift toward a more active and victim-centered strategy in which international human rights legislation functions as an effective check on oppressive authority, regardless of its origins. These changes should improve the ability of international human rights law to hold non-state actors directly accountable for their abuses of human rights. The 'voices of the suffering' will therefore be much more plainly audible as a result.

CONCLUSION

In conclusion, the relationship between non-state performing artists and universal human rights law could be a complex and advancing one. Whereas universal human rights law basically addresses the activities of states, it has progressively recognized the significance of holding non-state on-screen characters responsible for their human rights infringement. This advancement has been driven by the changing nature of clashes and control elements within the cutting-edge world. Non-state on-screen characters, counting revolt bunches, fear-based oppressor organizations, and multinational enterprises, can have a significant effect on the satisfaction of human rights by people and communities.

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CHAPTER 4

NGOS AND HUMAN RIGHTS: CHANNELS OF POWER

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ABSTRACT:
Non-governmental organizations (NGOs) play an important role in promoting and protecting human rights around the world. This particular research examines the interaction between NGOs and the various regimes that affect human rights issues. NGOs play a central role, using their expertise in ethics, social work and advocacy to challenge governments, academia and corporations. Through literature and research, he examines the tools NGOs use to explore human rights issues, including theory, legal advocacy, open-mindedness movements, and community support. In addition, the problems and ethical evaluations of NGOs in order to achieve their human rights goals are also discussed. This unique content sheds light on the progress of human rights work in today's world by exposing the closed regimes run by NGOs.
KEYWORDS:
Lobbying, Non-Discrimination, Social Justice, Stakeholder Engagement, Universal Rights

INTRODUCTION

Theoretically, non-governmental organizations (or "NGOs") pose a serious threat to accepted theories of international law and international relations. States alone have benefited from international legal personhood under the Westphalian paradigm. Only in respect to the state have other players have to be dealt with under international law. In the past, when NGOs and other non-state actors were discussed at all, they were presented as dependent entities. That tendency seemed reasonable in light of both theory and empirical data. NGOs were of minor significance in international relations on the ground throughout the modern era, despite the fact that history is currently being rewritten in light of their increasing contemporary relevance. The principle behind the state-based system would have been undercut if autonomous authority had been granted to NGOs. NGOs may be disregarded in one sense, but they had to be disregarded in another. That is not an option anymore [1], [2].

Since the conclusion of the Cold War and the onset of globalization, NGOs have been an integral part of any examination of international relations. On the global stage, non-state actors have become significant participants. NGOs exert impact on international processes across a range of subject areas. In terms of both the density and the importance of NGO action, the function is perhaps most significant in the context of human rights. The function of NGOs is still poorly understood. In recent years, a growing body of social science literature on NGOs has appeared. However, the focus of this work is often limited to a few distinct areas of NGO activity. Given the novelty of most of the activity and the need for descriptive descriptions in many settings, this is not unexpected. Theorists have made relative attempts to place NGOs inside international processes relative to the state. This strategy disregards the significance of NGO work not directly involving governmental action. This chapter makes an effort to organize human rights-related NGO work. It begins by explaining why the study of NGOs finds rich ground in the field of human rights. Non-state actors are likely a causative factor in the enshrinement of human rights regimes since human rights commitments cannot be explained in terms of reciprocal state interest [3], [4].

NGOs are discussed in the chapter as instruments of material power. The next section provides a taxonomy of human rights NGOs, separating generalist from identity-focused and domestic from international organizations. However, it is unclear if these distinctions have any real significance. The following section outlines the four main methods that NGOs may

use their influence on governments, companies, international organizations, and other NGOs. The scope and uniqueness of the NGO role in today's global decision-making can only be fully appreciated by placing NGO power in relation to state and non-state institutions. The chapter concludes by addressing the issue of NGO accountability in light of this extensive authority, suggesting that institutionalizing NGO power offers the most potential for correctly limiting its usage. Even while some of it is outright negative, most criticism about non-governmental groups is at least somewhat congratulatory. This chapter makes an effort to counteract this first-generation analysis tendency. Power is always open to misuse, therefore using it for good or ill, NGOs are no different from anybody else in this regard. NGOs, on the other hand, are unquestionably a tenable component of the international scene, and any idea of the new world order must take them into account as a democratic and legitimate agency [5], [6].

DISCUSSION

NGOs working for human rights are frequently referred to be "the conscience of the world." This cannot possibly be true in all cases. No longer all NGOs are equally progressive. Any constituency looking to pursue an agenda will act as a non-governmental vehicle as international decision-making becomes increasingly significant. The politics of NGOs will fluctuate more and more. The term "conscience" is maybe more appropriate in relation to human rights issues than in other areas. Most of the time, NGOs have advocated for the extension of rights, and they often couch their work in moral terms. The normative framing of NGO action also requires the causality of ideas. That could be the case, and it might be more so in the case of NGO action involving human rights than in other fields, given that commercial interests are less likely to be involved. The fact that NGOs have worldwide clout means that their influence on human rights concerns also has material components [7], [8].

NGOs have the power to cause target actors material damage. The possibility that NGOs are influential not because they are persuasive or right, but rather because they have power in a more traditional sense, is raised by the fact that actors who do not abide by NGO preferences on human rights issues can be made to pay for their non-conformance. Human rights provide a particularly fertile ground on which to explore the function of NGOs once one is aware of the possibilities of this more traditional power. It is challenging to justify state compliance with human rights standards from the standpoint of state interests. In contrast to other areas (such as relatively recent global topics like environmental protection and antiterrorism laws), governments have no compelling reason to favor that other states treat their own citizens in a manner that respects their rights. There are no shared objectives, therefore there is no benefit from collaboration. Due to the fact that game theory is unable to account for why human rights standards would gain any momentum, human rights provide a challenge to rational actor models of international relations [9], [10].

Assuming that state behavior is restricted by human rights-related international law, there must be a causal actor beyond the realm of states. It serves as a check on the influence of non-state actors. In contrast to other sectors, there is minimal chance that results will be overdetermined in the sense that an alternative explanation devoid of non-state influence is unlikely to occur. If left to their own devices, governments would lack motivation to create and uphold human rights standards that go against their interests. Non-state actors undoubtedly contribute to the explanation for why nations uphold human rights to some extent. This assertion of NGO influence is made as a matter of institutional logic to support an earlier inference drawn from recent developments in the worldwide protection of human rights. Others are now providing more systematic empirical evidence in support of the claim. The results of this empirical study provide intriguing, paradoxical new insights into how local human rights standards are developed.

For instance, research found a negative correlation between ratifying human rights accords and upholding human rights standards. However, it would seem that the more traditional view is supported. International human rights norms have undoubtedly solidified in recent years on some degree. Participation of NGOs is equally obvious as a plot point. The history of human rights is not quite brand-new. Some human rights, like the international prohibition against slavery, are well-established. NGO involvement has been a component of early victories for human rights. NGOs played an important role in the establishment of anti-slavery laws. Historians and experts in international law have gone back in time to examine NGOs' earlier impact, which may have been overlooked because to the Cold War's statist restrictions. As NGOs have grown in importance in the current human rights framework. While the scope and distribution of NGO influence are changing, these histories illustrate continuities in the process.

NGOS Working for Human Rights: A Type

The phrase "non-governmental organization" is now well known for being awkward while yet being deeply ingrained in everyday speech and hence impossible to ignore. With the negative meaning, the category encompasses a large area. It is commonly accepted that for-profit organizations are excluded. There are still a few of entities left. Politically active organizations are discussed in this chapter as an issue of institutional identity. This subset cannot be drawn precisely. It mostly consists of organizations dedicated to the creation and upholding of human rights laws, with Amnesty International and Human Rights Watch serving as models. However, it also includes humanitarian NGOs like Oxfam, CARE, and Médecins sans Frontières that, although being focused on providing services, also engage in parallel political activities. More than only expert groups and epistemic communities are the focus of this category. But these organizations often have political objectives. Thus, many are also covered by the study presented here.

Activist rights NGOs can be further broken down into two main subcategories: those that advocate for identity groups (for example, organizations advancing the rights of gays, women, indigenous peoples, the disabled, and countless other communities) and those that do so more broadly (Amnesty International and Human Rights Watch as examples). Only the latter may make the claim to represent humanity's conscience inasmuch as they don't discriminate or at least don't profess to discriminate in favor of one group over another. Identity-oriented NGOs prioritize the interests of their more or less distinct constituents while conducting political action. Human rights NGOs may not always see the difference as important. Even generalist groups, which claim to pursue universalist ideas, represent sympathizing populations. That is, even specialized NGOs strive to promote their supporters' desires [11], [12].

Human Rights Watch would behave in accordance with the wishes of its main funders if it wants to survive as an institution, even though it would undoubtedly oppose the proposal. Amnesty International is set up as a membership-based organization, with country sections receiving proportionate participation on an international council whose decisions are made by a majority vote. In each scenario, the company must choose just a few potential agenda items. All NGOs are interest groups in this sense; as Paul Wapner notes, "much like other political actors," NGOs "are self-interested entities engaged in advancing their own agendas." This has been a crucial point in underlining the Northern orientation of organizations like Amnesty International and Human Rights Watch, as well as how strongly they have pushed a liberal political rights agenda while downplaying economic and social rights. Some studies make a distinction between international and domestic NGOs. This division could potentially be arbitrary. Even the most local NGOs may operate via transnational pathways, according to constructivist views of NGO involvement in international relations. For the sake of accreditation, the United Nations no longer draws clear lines.

Although national NGOs may have fewer institutional access opportunities than transnational ones (particularly via the channels of international organizations), this may just be another way of suggesting that they will be, on average, less influential than transnational NGOs. Between national and international NGOs, there does not seem to be any fundamental distinction. The classification only serves to reinforce borders' prior significance in a manner that otherwise contradicts NGO work. NGOs will aim to promote specific objectives, whether on behalf of domestic or international constituents, in either scenario. It could be helpful to distinguish between activist and service NGOs. Relationships between the constituencies of service NGOs' funders and assistance beneficiaries exist. The primary activity of service NGOs is the transfer of commodities and services.

They either do not have the intent to create or uphold rights, or they do so merely incidentally to their main goal of providing services. Service NGOs offer public goods and other services that governments would typically provide (they are often supported by governments as contractors). The divide is not perfect since significant humanitarian organizations are pushing a parallel political agenda more and more. The approaches outlined here may be applicable to the degree that service NGOs are focused on the international legal system and enforcement procedures. Finally, so-called epistemic communities may focus on actions that aim to change the law. Experts strive for prominence in policymaking. However, it has been shown false that expert groups are impartial or objective. Even when doing so under the guise of objective (or even transcendent) principles, expert human rights organizations, particularly legal ones like the International Commission of Jurists, are in the business of promoting agendas. They may be characterized as interest organizations, yet ones that have greater influence than the constituencies they represent.

Therefore, for the sake of this research, expert groups may be categorized as active NGOs. Thus, this chapter discusses NGOs' role in influencing global human rights standards. The category is vague and unfocused. It's unlikely that a more detailed actor typology will be useful in addressing the paths of their effect. There is no correlation between these routes and organizational structure. This might be an indication that these pathways are just rudimentarily established. New international decision-making procedures have not yet sorted organizational identities, in contrast to more developed political systems. Any organization with power will be able to use it in the interim. Nevertheless, there are developing trends in the use of this power. The location of NGO influence in the development of international human rights legislation serves as a valuable model for these trends.

Targets and levers for influence

The network of NGO influence is intricate. The majority of analyses of the role of NGOs in global governance concentrate on a particular activity channel. This section aims to provide a more comprehensive overview of NGO activities in the area of global human rights. NGOs have influence-penetration points and levers for pushing agendas. In other words, they use levers to try to persuade one actor to persuade other actors in turn. In other situations, they could try to persuade an actor to change their behavior (targets). NGOs engage in both direct and indirect interactions with governments, international organizations, businesses, and other NGOs.

State-NGO interaction

International human rights NGOs still largely influence state behavior by acting as targets or levers. The international actor with the greatest institutional clout continues to be the state. The most efficient way of furthering NGO aims is often through using state allies as weapons against other entities. States are often the ultimate target of NGO activities since they continue to be the most significant player in terms of enforcing international human rights principles. States are used as a lever to exert pressure on other states and other players. In the realm of domestic politics, this process takes place in a predictable way. A domestic human

rights NGO works with its own government to advance a human rights agenda via interstate ties with other nations and in international organizations.

The domestic NGO employs the traditional political resources of money and votes in addition to providing expertise in the manner of traditional lobbyists. In reality, NGOs use their governments as spies against other nations and other players. The tactic enables NGOs to use conventional governmental authority. Once nations are involved, the remainder of the process resembles classic international relations: governments exerting pressure on other states to act in accordance with their interests via the use of diplomatic, economic, and, in the most severe circumstances, military action. This explanation is consistent with the logic of two-level games, liberal theories of international relations, and theoretical descriptions of international relations: domestic politics contributes to the explanation of global results.

These methods treat NGOs as significant inasmuch as they partly represent home-state interests. Where NGOs operate beyond the parameters of domestic politics, the plot becomes more complicated. NGOs from one state today often attempt to persuade other nations to change their behavior toward that of a third state or even their own. For instance, the US-based Human Rights Watch advocates to the British government on behalf of its views on, say, Myanmar or the post-9/11 anti-terrorist measures in the United States. Insofar as the source of NGO influence outside of domestic politics is not clear, this route is harder to explain in terms of traditional power politics. There are two viable explanations. First, it's possible that NGO influence is based less on the traditional political currency (votes and money) and more on the power of ideas. The constructivist school of international relations theory is founded on this fundamental concept.

NGOs promote concepts that are crucial to governments' identity. NGOs aid in the internalization of the concepts they contribute to developing. In a similar vein, NGOs are in a position to provide knowledge, which may aid in advancing agendas in certain situations. Of course, there will be many instances when the objectives of the state and NGOs align, negating the need for either discipline or persuasion, and where NGOs serve state interests just as well as the other way around. Insofar as some states understood their interests to coincide with NGO agendas against the "political hegemony of the United States," one observer describes the Ottawa Process that led to the Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on their Destruction in those terms. Others have highlighted that the project provided a situation in which "small and medium-sized states [could] overcome great power opposition in partnership with global civil society; the US does not always have to lead the new post-Cold War environment."

Alternatively (or separately), NGOs may influence nations since they can gather strong allies against them even outside of traditional politics. For instance, the British government is aware that Human Rights Watch may organize supportive constituencies in the UK with regard to the third country policy at issue, or (for that matter) with regard to unrelated policies of the UK, in order to get action from the UK against a third state. Regarding the latter, Human Rights Watch has the ability to organize other agents, including foreign governments, to take action against the UK. States may thus serve as both targets and levers. In the area of human rights, states are often the ultimate aim of NGO action. The majority of human rights standards are mostly, if not entirely, applicable to governmental actors.

Governments have an incentive to accede to NGO requests since NGOs may utilize strong agents against them, such as other governments, corporations, and other non-governmental organizations. In other words, NGOs have the power to force nations to pay for unethical behavior. This is the cost of NGOs"shaming' tactics. By no means does that give NGOs unrestricted authority. Target-state regimes' cost-benefit analyses could indicate that they should reject NGO advancements. Many NGOs are powerless and have little influence. Target-state regimes will defy NGO requests if giving in to them puts the regime at danger of

falling. For instance, the military government in Myanmar resists NGO demands since giving in might lead to its overthrow. NGOs must prioritize their money and choose their fights as political players. Only a small number of sympathetic constituencies and other agents may be called into action. But there will be a need for target nations to act in response to the amount to which NGOs profit from and successfully exploit their political influence.

CONCLUSION

Among the many ideas this chapter can do (because the topic is now far-reaching), it looks at creating a kind of NGO work in international human rights work. NGOs are now integrated into international decision-making processes. Their importance goes beyond impact. NGOs do not only use their powers from the state. They are free to cross borders so they have an international legal identity. Explanations are mostly descriptive and focus on patterns. He also expressed his concerns about the illegitimacy of NGO power. However, all this cannot overlook the importance of the NGO's (but) contribution to the promotion and protection of international human rights. NGOs are important for human rights reform. Their cooperation becomes necessary from the point of view of law. Indeed, NGOs play an important role in addressing concerns about accountability under international law.

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CHAPTER 5

HUMAN RIGHTS IN ECONOMIC GLOBALIZATION: AN OVERVIEW

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ABSTRACT:
The miracle of global financial markets has brought unique opportunities and challenges to the global community. It promotes greater economic development and connectivity while also raising concerns about its impact on human rights. This special article provides a brief introduction to the relationship between international trade and human rights, highlighting key concepts and discussions. Global trade, supported by innovation and trade liberalization, has driven the world's economic integration. This has brought many economic benefits, reduced poverty and improved living conditions in many regions. But this also brings with it many human rights problems. Globalization has the potential to exacerbate existing inequalities within and between countries is a major concern. While the benefits of globalization are often disproportionate to the wealthy, unarmed citizens can face negative consequences such as oppression, poor working conditions and inherent corruption. This unique research examines the diffusion of the benefits of globalization and the need to secure financial, social and legal conditions for all.

KEYWORDS:
Economic Globalization, Environmental Rights, Global Economy, Income Inequality.

INTRODUCTION

McCorquodale draws attention to the issues with a system that freely disregards the efforts made by non-state actors to ensure the protection and promotion of human rights as well as to prevent and punish human rights violations because it was built on the premise that states can and do control the activities of entities operating within their respective territories. The folly of such presumption is more obvious in the context of economic globalization than anywhere else. There are many distinct sorts of entities that may operate internationally and go beyond the regulatory reach of any one state in the modern, globalized economy. Many of those organizations, including multinational firms, global financial institutions, and development banks, participate in activities that have a significant impact on human rights, both favorably and unfavorably [1], [2].

Through the way they treat their employees, for instance, corporations, for example, have a clear and direct potential to have an impact on labor rights, both positively and negatively. This includes providing or denying workers with reasonable rates of pay, reasonable working conditions, a safe and healthy workplace, nondiscrimination, freedom of association, and the right to organize. They may also have significant negative effects on the communities in which they operate, such as the methods used to acquire land and water, serious pollution that may have an impact on people's rights to water, health, and even life, or the excessive use of security to shield businesses or silence critics. International economic institutions frequently assert that the general prosperity produced by their operations has a favorable effect on the enjoyment of human rights, both directly and by giving states the means to take action for the realization of economic, social, and cultural rights in particular. On the other hand, development organizations have come under fire for funding massive infrastructure projects that forcibly evict local residents without providing adequate protections, violating their right to housing, and impairing their ability to support themselves [3], [4].

This has the potential to negatively impact many other rights, including the right to work, the right to sufficient food and water, the right to health, and a number of other rights. Reductions in social security, public sector employment, and state-subsidized services have been

attributed to the economic policies demanded by international financial institutions like the International Monetary Fund ('IMF'), which have been blamed for a decline in the enjoyment of human rights supported by those services, such as the rights to health, education, work, access to water, and so forth. Similar criticism has been leveled at the World Trade Organization (the "WTO") for failing to uphold human rights principles in deference to market forces, especially when it comes to access to basic services and affordable healthcare, and for putting obstacles in the way of the world's poorest people's economic advancement. Whether or not the state was involved in any of these incidents, the effect on the affected people's ability to enjoy their human rights cannot be disputed. According to Skogly, "whoever commits atrocities, the effects are the same for the victims of human rights violations."

Therefore, every government, organization, person, and company has the potential to violate international human rights legislation as it exists, if not necessarily do so. However, there is a clear issue with depending on a state-based system for human rights accountability if none of those organizations are subject to a specific state. Because of these factors, there has been an increase in calls for international human rights legislation to recognize direct legal duties on the part of non-state actors in the economic sphere with respect to their effect on human rights. Because the various international economic actors to which these arguments are frequently applied serve very different purposes in the international economic and legal systems and take on a number of clearly different legal forms, the proper response to that call is not as simple as it might initially appear. Because of this, the legal foundation for the imposition of direct human rights responsibilities, the nature of such requirements, and the means by which they could be successfully implemented will vary greatly depending on the kind of actor. This chapter's objective is to provide an overview of how human rights concepts relate to the activities of various types of international economic actors [5], [6].

Two extremely diverse categories of economic actors have been selected for this aim. Private transnational corporations are looked at as direct human rights violators that lack any institutional standing in public life yet are often able to operate beyond the purview of any one state. On the other end of the public-private spectrum, the WTO is seen as a regulatory agency, a body that oversees and upholds global commerce, possibly impacting the human rights of millions of people without having any direct contact with the 'victims'. Since it is made up of member states and is thus the result of collective state activity, the WTO has a personality and a life of its own on the international stage and is not subject to the legal authority of any one state. Numerous more international economic players fall somewhere between these two ends of the spectrum and have a tangible impact on human rights in different ways without being obligated to any state that can be held accountable for its deeds. They include regional development banks and open-end international financial organizations like the World Bank and the IMF.

The case studies of multinational corporations and the WTO should demonstrate the need for a broader conception and application of human rights duties beyond the responsibilities of states alone, which is applicable with some adaptation to other types of international actors, even though space prohibits a discussion of such actors in this chapter. The next part examines the phenomena of the fragmentation of international law before moving on to the consideration of each kind of actor. This issue is essential because it establishes how international human rights legislation interacts with other areas of international law that more directly regulate global economic activities. The following part tackles the issue of whether or not entities other than governments are capable of upholding human rights duties after concluding that international human rights norms are in fact applicable to the economic sphere. Next, each case study between a multinational corporation and the WTO is looked at. The chapter ends with the observation that a system of human rights protection that is solely

based on states is manifestly insufficient in the face of economic globalization and a warning that theoretical means of incorporating human rights standards into economic activity are useless in the absence of states' actual cooperation [7], [8].

DISCUSSION

For the time being, we will set aside the question of whether international human rights law can be applied to non-state actors in any way and instead focus on the relationship between human rights law's guiding principles and the various varieties of international economic law that define the contexts in which many international economic actors operate. Through the agreements that are drafted, upheld, and challenged in accordance with its authority, the WTO effectively controls a specific area of international law. The Articles of Agreement or other governing documents of the relevant institutions, which establish the broad guidelines for decision-making within the institutions, set the policies and procedures under which the day-to-day operations of the international financial institutions are carried out. Arbitration and investment agreements are expected to be the areas of international law that have the most impact on the operations of multinational corporations. Each of these and several more subfields of international law exist, and their level of specialization is growing. This environment makes it more likely that they will become isolated from one another and may even come into conflict [9], [10].

A research group established by the International Law Commission produced a report on the topic of the fragmentation of international law, which was summarized as follows: The area that was once thought to be governed by "general international law" has now been taken over by such specialized systems as "trade law," "human rights law," "environmental law," "law of the sea," "European law," and even such exotic and highly specialized knowledges as "investment law" or "international refugee law," each with their own guiding principles and institutions. According to attorneys, the issue is that such specialized law-making and institution-building often occurs in a manner that is largely ignorant of the general rules and practices of international law as well as legislative and institutional actions taking place in related domains. Conflicts between rules or rule-systems, ad hoc institutional procedures, and sometimes a loss of a comprehensive understanding of the law are the results. These specialized areas cannot be wholly separated from basic international law. A system created by a treaty or set of treaties, with its own judicial mechanisms for interpreting and enforcing the treaties, as is the case with the WTO and other regional human rights regimes, continues to function within the larger framework of general international law. General international law fills in the gaps left by the treaty system and, at the very least, establishes the guidelines for how such treaties should be read, in relation to other treaties and international standards. According to a statement made by the WTO's dispute settlement bodies, "to the extent there is no conflict or inconsistency, or an expression in a covered WTO agreement that implies differently, the customary rules of international law apply to the WTO treaties and to the process of treaty formation under the WTO."

Using a similar line of thinking, the WTO Appellate Body determined that the phrase "conservation of exhaustible natural resources" "must be read by a treaty interpreter in light of contemporary concerns of the community of nations about the protection and conservation of the environment," and thus extended to the conservation of sea turtles. As a result, it is important to keep in mind that human rights have a fundamental place in the international system while interpreting and applying accords in the economic realm. Consequently, when drafting economic treaties between states or agreements between a state and a non-state actor, it is important to keep in mind the existence of treaty and customary human rights obligations for states (leaving aside for the time being the possibility of human rights obligations for non-state actors). The many WTO agreements, host state investment treaties, and the bylaws of the global financial institutions all fall under this umbrella. Without compelling evidence to

the contrary, it is necessary to infer when using such documents that the governments that are parties thereto did not intend to renounce or contradict their commitments to human rights in other fora. In these circumstances, it is plausible to assume that the institutions tasked with carrying out the will of their member states have a responsibility to do no damage, or not to breach such human rights obligations [11], [12].

International law's view on human rights The United Nations Charter, sometimes known as the "UN Charter," makes clear how essential human rights are to the whole body of international law. Human rights, global peace and security, and international cooperation are the four goals of the UN outlined in Article 1 of the UN Charter, which together establish a vision for the international order with the defense and upholding of human rights as its central tenet. One of those goals is to achieve international cooperation in order to address global issues of an economic, social, cultural, or humanitarian nature as well as to promote and encourage the upholding of fundamental freedoms and human rights for all people without regard to their race, sex, language, or religion.

Article 103 of the UN Charter states that any incompatible international duty should be superseded by the provisions of the UN Charter, therefore international economic treaties should be interpreted in a way that upholds those objectives. The international community's aims for human rights and their central place in international law should be taken into consideration when making policies and operational choices in accordance with such treaties. It can be argued that the obligations for states outlined in the UDHR and possibly the later instruments that expand on its provisions, such as the Convention on the Elimination of All Forms of Racial Discrimination, constitute an authoritative elaboration of the human rights provisions of the UN Charter and must take precedence over any incongruous obligations. A minimum result of such an approach would be an implied duty to refrain from any economic, or other, action that would cause a state to breach its obligations with respect to human rights, on the justification that the proper interpretation of the applicable legal framework of treaties, implementing legislation, and institutional policies should be consistent with the relevant state's paramount obligations to respect, protect, and fulfill human rights.

The same outcome is accomplished for those jus cogens standards of human rights, such as the bans on slavery and genocide, without having to turn to the UN Charter. Other treaties and subsidiary documents must be interpreted in accordance with jus cogens standards because they are invalid to the degree that they violate those standards. There is debate about whether human rights principles should be considered standards of jus cogens beyond a certain basic core of principles, and there is no definitive source of authority on the subject other from the case-by-case decisions of international tribunals. Shelton has used evidence from the European Court of Justice to argue that the whole corpus of human rights legislation qualifies as jus cogens, while other legal scholars are far more cautious, warning that too wide an application of jus cogens might "weaken the credibility of all rights."

Unaffected by specialization or fragmentation, the international community's intention to guarantee protection of human rights as a fundamental goal of the international legal system cannot be disregarded, regardless of the list one chooses for the rights that attract the hierarchical status of the UN Charter or norms of jus cogens.

Naturally, none of this automatically subjects non-state actors to direct legal responsibilities. Instead, they help to define the international legal framework that nonstate economic entities must operate inside.

The practical result may be a de facto duty for actors within that framework to respect (and possibly to protect or fulfill) human rights during those operations, even if international human rights law does not formally impose any obligations on those actors directly. This is true to the extent that such a framework restricts the actions that non-state actors are lawfully able to take.

International economic actors' capacity to uphold their duties to uphold human rights

Despite the fact that governments are the main focus of international law, it is undeniable that other types of entities are also capable of directly benefiting from rights and assuming duties under the law, without relying on a state's protection or oversight. As a result, under certain conditions, people can directly complain about an international wrong in a global setting without waiting for their home state to act on their behalf, as is the case with several human rights treaties, and they can also be held directly accountable for breaking international law, as is the case with international criminal law. Additionally, corporations are able to enforce their rights in a few international forums, including the Convention on the Settlement of Investment Disputes and the arbitration provisions of the North American Free Trade Agreement. International organizations have international legal identity, which is also widely acknowledged. That does not mean, however, that these non-state actors have a same ability to claim rights or fulfill duties under international law as do states.

In one of the International Court of Justice's (ICJ) earliest rulings, the advisory opinion in Reparations for Injuries Suffered in the Service of the United Nations, the court was consulted on the question of whether the UN could be treated as a separate legal entity from its member states for the purposes of bringing a claim against a non-member state for injuries it caused to UN personnel. In reaching its decision that the UN is an international legal person, the court emphasized the adaptability of the concept of international personality as well as the exercise of rights and the imposition of responsibilities under international law: In every legal system, the subjects of law are not all the same in terms of their character or the scope of their rights, and their nature is determined by the requirements of the society. The demands of international life have shaped the development of international law throughout its history, and the gradual expansion of States' collective activities has already resulted in instances of non-State entities acting on the international level. Similar justification was used by the ICJ in the later advisory opinion on the legality of nuclear weapons, in which the court upheld the World Health Organization's ('WHO') international legal personality but held that the capacity of the WHO was not unlimited in the manner of a state's capacity, and did not extend to a capacity to request an advisory opinion on the topic of the use of armed force and nuclear weapons If international economic actors are to be held directly liable for violations of international human rights law, such requirements must be tailored to the specific entity's business practices.

Therefore, deciding that companies should have direct responsibility for upholding human rights commitments should not entail mandating that they dedicate all of their resources to the progressive realization of economic, social, and cultural rights, as governments are required to do. It would be quite feasible to restrict the duties of such actors to the realm of their routine business activities, accepting full responsibility for any human rights breaches that may arise during those operations. A duty envisaged in such terms need not replace the state's principal responsibility as the protector of human rights, but it might guarantee that relying only on the state's obligation to prevent abuses of human rights by non-state actors is not the only course of action. In fact, relying simply on the state's responsibility to protect is not an option at all when dealing with organizations that are beyond the jurisdictional authority of any specific state, as McCorquodale's chapter makes clear.

Therefore, it is possible for international economic actors to have direct obligations under international law relating to human rights, and it is also possible for those obligations to be limited and tailored to the roles played by the respective actors on the international plane. However, in a statecentric system of international law, it is first necessary to establish an intention on the part of the community of states to impose such obligations. Such an intention could be stated clearly, as in a treaty imposing direct obligations like the direct liability of individuals for international crimes under the Rome Statute of the International Criminal

Court, or it could be inferred from state practice and the opinion juris of states to give rise to a norm of customary international law, as was the basis for individual and organizational criminal liability before the international criminal tribunals at Nuremberg and Tokyo. McCorquodale contends in this book that there is now a lack of this purpose to impose responsibilities on non-state actors. In order for the protection of human rights in the economic sphere to be effective and enforceable, explicit acknowledgement from states that current standards impose duties of some sort on economic actors would be extremely helpful. A treaty outlining the specific obligations would be more useful still. In the absence of such explicit state recognition, efforts to balance human rights with international economic activity, such as those described below in relation to multinational corporations and the application of trade rules, will continue to be necessary but ineffective in their results.

CONCLUSION

However, the theoretical possibility for international investors to consider human rights standards is of no value if not implemented. For many companies, this means acknowledging that these companies have or should have human rights and developing strategies to meet and manage those obligations. For the WTO, this means that member states and WTO bodies are aware of trade-specific issues related to human rights, and countries are more willing to promote human rights measures as there are no limits to the interpretation of trade laws. For other international investors not covered in this chapter, the steps for implementation may be different, but the principle remains the same: in the context of international trade, it is not enough to rely on the country for the protection of human rights; Human rights standards apply to other organizations as well, and governments and organizations themselves need to take these responsibilities seriously and incorporate them into the day-to-day work of business organizations.

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CHAPTER 6

EXPLORING THE IMPACT OF HUMAN RIGHTS AND DEVELOPMENT

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ABSTRACT:
The intersection of human rights and civilization has become an important topic of discussion in today's world. These particular themes reveal solidarity and solidarity by highlighting the various relationships between human rights and progress. Human rights; It includes respect, political, economic, social and social rights that support the fundamental institutions of justice and economic development. It enables people, communities and countries to participate in development when human rights are valued and supported. In addition, development was followed with financial, social and natural benefits. It exists and plays an important role in the realization of human rights. These activities can ensure social cohesion, contribute to the achievement of economic and social rights by reducing poverty, lead to success in education and health services, and improve living conditions. Perspective examines the complexity of managing development finance for the protection of human rights; highlights the challenges associated with investing in inequality, change and situation. He added that development can be achieved if human rights are at the forefront in policy making and implementation. Also, the report examines the role of organizations, governments, communities and individuals in global progress. The power of cooperation between human rights and progress. Key drivers of control, accountability, and overall participation are covered.

KEYWORDS:
Access to Education, Accountability, Civil Rights, Development Aid, Economic Rights.

INTRODUCTION

Other chapters in this book make apparent how fairly constrained the international law of human rights and the international law of development are. Each of these disciplines is governed by international standards and institutions, despite their overlap in subject matter and murky conceptual connections. Human rights law covers a wide range of situations in which the human person needs the protection of the law from harm and abuse as part of a larger effort to promote human welfare. It draws on and has its own standards relating to issues like protection of refugees, victims of armed conflict, workers, children, and the like. Although less well defined, the law of development covers issues including international finance, assistance, commerce, investments, anti-corruption, and loans. The treaties and other normative documents that make up international development law in one way or another support efforts at the national and international levels to safeguard special interests, while frequently introducing a discourse about lifting the people of developing nations out of poverty and establishing a political economy based on rules that is beneficial to human welfare. How should these two human welfare methods be differentiated from one another? International development law encourages economic creation and expansion, while international human rights law promotes the flourishing of the human person [1], [2].

While certain development theories, sometimes referred to as "classical" or "neoliberal" and beginning with the word "economic," see wealth creation as a goal in and of itself, other theories, typically using the terminology of "human development," view wealth creation as a way of enhancing human welfare or well-being. Growth-based models of development take into account the expansion of consumer goods and services, infrastructure, social capital, and

industry for increased production capacity, market efficiency for increased utility, and trade and investment for comparative advantages in the global economy. The term "welfare models" refers to development strategies that emphasize the human being as a goal rather than a means of development, sustainability to fulfill the needs of both current and future generations, and increasing options via improved capabilities. The United Nations Development Programme (UNDP) defined "human development" as "creating an environment in which people can develop their full potential and lead productive, creative lives in accordance with their needs and interests" in its Human Development Report [3], [4].

The welfare model closely resembles this definition. This chapter focuses on the legal aspects of the link between each of these approaches to development and international human rights legislation. The application of internationally recognized human rights in the context of national and international policies, programs, and projects relating to economic and social development will be the focus of my definition of the human rights in development subfield of international human rights law. The use of human rights in development is based on the general ideas that normative aspects of a human rights framework can enrich development theory and practice and that both development and human rights are complementary approaches to enhancing human well-being. However, there is still a great deal of debate over the nature of the mutually reinforcing relationship between human rights and development practice as well as their substance and practical significance. Human rights in development can be approached in a variety of ways, from the fundamental concern for specific obligations under human rights treaties within particular development sectors (such as health or education) to more systematic efforts to link human rights norms to the entire process of development, through the concept of the "right to development," which was identified in the early 1970s and later further clarified in both non-binding and binding legal instruments [5], [6].

Despite the fact that I will start by discussing the right to development, the issue is far larger and is better referred to as "human rights in development," a phrase used by the Office of the High Commissioner for Human Rights. It is necessary to connect the fundamentally legal and political approach of the former with the fundamentally economic and social setting of the latter in order to meaningfully apply human rights principles to the process of development. The legal foundation of the right to development, the application of human rights law to assistance and methods for reducing poverty, and the conflicts between human rights law and the legal frameworks governing international commerce and investment will all be covered in this chapter in turn. To put it another way, we start with the full integration of human rights into development by asserting that development itself is a human right, then we look at the emerging law and practice of the gradual introduction of human rights means and methods into development practice, and finally we assert that human rights and development are two distinct spheres that only slightly overlap [7], [8].

DISCUSSION

The 1986 Declaration on the Right to Development4 as well as the works of several experts, notably the UN Independent Expert on the Right to Development, have defined the right to development. In a nutshell, it is a right to a procedure as well as progressive results with the goal of achieving the full realization of all human rights in the context of equitable growth and "sustained action to promote more rapid development and effective international cooperation in providing developing countries with appropriate means and facilities to foster their comprehensive development," in the words of the DRD. The right to development and human rights in development are related in that governments and development partners must integrate human rights considerations into their development policies and practices in addition to other requirements stated or implied by the DRD in order for the right to development to be implemented.

The right to development therefore encompasses but does not coextend with a human rights approach to development insofar as the latter, which will be discussed in the following section, may be applied in a particular economic sector or in a localized development project, whereas the former calls for human rights to be systematically integrated into all sectors of development in the context of international efforts to facilitate such development. Making a definition of the right to development or a human rights-based approach to development practical is the biggest problem. The procedures necessary to put the right to development into practice are not specified by describing its constituent parts. Since the right to development is still in its infancy, it cannot be applied with the same rigor as other human rights standards, nor can adequate mechanisms for accountability and corrective action be established to address instances of failure to do so. However, it is tenable to argue that taking this right seriously requires that governments, civil society organizations, and international organizations approach it with adequate rigor by defining and implementing the proper accountability procedures. Otherwise, the right to progress will only have real meaning in theory [9], [10].

Developmental right's standing in the law

Regarding the legal standing of the right to development, governments have taken a wide range of positions, from the outright denial of the claim that it is a human right at all to the assertion that it is a fundamental right that should be legally enforceable and at the center of all initiatives to promote and protect human rights. The middle perspective holds that international law underpins the right to development, but that the degree to which it legally restrains nations is still developing. In fact, this human right has legal significance thanks to official statements made by governments since the mid-1970s, particularly in light of their support for the DRD and the right to development in the 1993 Declaration of the Vienna Conference on Human Rights and other resolutions of the General Assembly and summits. The DRD raises expectations that states would transition from political commitment to legal duties, like earlier declarations issued by the General Assembly. Therefore, once an international standard becomes a binding legal standard, the DRD is a valid reference by which to hold governments, at the very least, politically responsible.

The political backing for this change has been reaffirmed at successive UN summits, which often only mention the right to development once, frequently as a hesitant political compromise, before moving on to discuss the main topics of the gathering. For instance, at the United Nations Millennium Summit in September 2000, world leaders adopted a set of objectives for tackling discrimination against women, environmental degradation, hunger, disease, and poverty. These objectives later became known as the Millennium Development Goals (or "MDGs"). The pledge to "making the right to development a reality for everyone and to liberating the entire human race from want" was included in the Summit Declaration, but it received no more reference. The UNDP's 2003 Human Development Report, which focused on the MDGs, said that the MDGs support the right to development. In instance, the study acknowledged "that the targets expressed in the Goals are not just development aspirations but also claimable rights" in addition to affirming that "achieving the Goals will advance human rights."

The paper concludes by stating that "the Millennium Development Goals more explicitly define what all countries agree can be demanded benchmarks against which such commitments must be measured." It is natural that given the political environment in which it first developed, the right to development is still seen more as a rhetorical ideal than as a normative framework for deciding on priorities and distributing resources. Development partners must establish bilateral facilities or nation-specific agreements in order to take the right to development seriously. By institutionalizing the responsibilities of poor nations to uphold the commitments they voluntarily agreed to implement human rights-consistent

development programs, such agreements provide an alternative to human rights conditionality. The obligation of donor nations and organizations to promote the right to development via international cooperation, including debt relief, improved trade conditions, and enhanced development aid, is equally significant. The attractiveness of the right to development is its alleged capacity to reshape international economic interactions, particularly between rich and developing nations, on the basis of equality, collaboration, and shared obligations rather than fostering conflict. It is simpler to accomplish such aims on a moral level than on a legal one.

Commitment To the Development Right in Law

The human right to development expands on and incorporates legally enforceable standards to the degree that it upholds rights that are already spelled out in such documents as the two international covenants on human rights. When seen as a composite right, the right to development entails "perfect obligations" from each of its constituent rights; as a result, the duty-bearers may be determined and legal judgments can be made about allegations of non-conforming behavior. However, insofar as the right to development creates an obligation to combine those elements into a coherent development policy, it more closely resembles the idea of a "imperfect obligation," whose realization necessitates complex sets of actions and the allocation of resources to create and implement ambiguous policies at the national and international levels. In order to achieve development in a manner that consistently combines the five principles of justice, non-discrimination, participation, transparency, and accountability, governments have a moral duty to create such policies. In this sense, it is a political commitment on the part of governments, but it is an aspirational right for which there are no current legal remedies. If the political posturing that has so far defined this right can be replaced by concrete policies and programs with demonstrable consequences, then the imperfect commitment to realize the right to development should be gradually converted into more particular duties [11].

There is a chance to go in that direction given the Open-Ended Working Group on the Right to Development's present responsibilities and those of its high-level task force. The DRD is a resolution that expresses the views of member states in an instrument that did not seek to create legally binding rights and obligations; however, the legal basis for asserting that states do have such obligations derives not from the legal nature of the DRD but rather from the legal obligation to act jointly and separately for the realization of human rights and "economic and social rights." Article 2 of the ICESCR contains the main legal justification for the nations parties to that treaty. According to the logic of the right to development, it is impossible to fully realize "all rights" by piecemeal efforts; instead, this can only be done by implementing a policy that is specifically intended to do so, gradually and in line with the resources at hand. In that regard, the ICESCR effectively sets legal responsibilities to carry out the demands of the right to growth. Each of the 160 states parties (as of October 2009) is required by law to comply with these commitments, which include changing their internal policies as well as working together internationally to achieve the same goals.

The reciprocal responsibilities listed above have a legal foundation according to the requirement in Article 2(1) ICESCR to "take steps, individually and through international assistance and cooperation." The putative extension of this duty to cooperate with the right to development is stated in Article 4(2) of the DRD: "[a]s a complement to the efforts of developing countries [to promote more rapid development], effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development." According to the narrow reading, a wealthy state may claim that three aspects of its foreign policy satisfy its legal requirement to participate in "effective international cooperation" for the realization of the right to development. The first is its foreign aid policy; the second is its involvement in organizations that promote

development, such as the UNDP and the Organization for Economic Co-operation and Development (OECD); the third is its participation in discussions on development issues at international gatherings, including the General Assembly, the Economic and Social Council (ECOSOC), and conferences and summits. This narrow view holds that it has no further legal (or moral) duties beyond that widespread participation in the process of international cooperation. Therefore, according to the narrow interpretation, a nation that contributes aid at any level, even far below the MDG-required target of 0.7% of GDP, participates in institutions for development, even if it doesn't actively promote innovative development policies, and takes part in UN discussions on development, regardless of how it votes, would have no further obligations under the right to development.

It might claim that the term to be "effective" in Article 4 (2) DRD is too ambiguous to call for more since it has "cooperated" in development. The politically important declarations of high-level conferences and the legally significant interpretations of expert organizations, which imply a more expansive reading, are not sufficiently taken into account by this limited approach. Through the insertion by reference of the most important documents relevant to the particulars of cooperation, such a broad interpretation of the legal need to cooperate in development would provide substance to the nebulous obligation to cooperate. This interpretation states that the General Comments drafted by the human rights treaty bodies, the declarations and action plans of international conferences and summits, resolutions that are meant to advance the development of international law, and the viewpoints of eminent experts and institutions would all serve as sources for the content of the obligation to cooperate. The General Comments are directly connected to a binding legal document, but the declarations and action plans of international conferences and summits are not. However, these declarations and the General Assembly resolutions that support them do provide a good deal of advice about the details of the overarching legal requirement of international cooperation outlined in the United Nations Charter and the ICESCR.

A broader interpretation would therefore expand the responsibility of nations and other entities, including non-state actors, to include the development of "national and international conditions favorable to the realization of the right to development" as stated in Article 3(1) DRD and, consequently, the structural transformation of the global political economy. Despite the minimal likelihood that all of the MDG objectives will be met by 2015, the international community's commitment to achieving the MDGs and the most current evaluations of the MDGs' human rights components may be used in this regard. Many people have a valid point when they say that the process of globalization and the tendency toward free markets and free trade weakens the safeguards for human rights and exacerbates the inequities and injustices of uneven development. The freedom of movement of people, products, money, labor, ideas, and images presents huge prospects for the kind of fair growth and poverty reduction that are necessary for the realization of the right to development. According to Article 2(3) DRD, states must "formulate appropriate national development policies" and "create national and international conditions favourable to the realization of the right to development" if they want to avoid predatory trends and the negative effects of globalization.

The right to development approach provides a normative toolset for evaluating globalization processes using the framework and tenets of global distributive justice. This responsibility, which is outlined in the DRD but is not legally binding, is furthered by the ICESCR, which requires states parties to contribute through international cooperation to the realization of economic, social, and cultural rights, including through foreign aid, and to express this concern in their voice and vote in international financial institutions and decision-making bodies. The Universal Declaration of Human Rights mentions the right to a social and international order in which all rights can be fully realized in Article 28 of the Declaration of

Human Rights, despite the fact that the ICCPR does not contain the same obligation of international cooperation. The preambles of both Covenants also make reference to the need to create "conditions whereby everyone may enjoy his civil and political rights, as well as his economic, social, and cultural rights."

These widely recognized norms support the premise that international cooperation is required to realize the right to development. The phrase "international conditions favorable to the realization of the right to development" in Article 3(1) DRD refers to the duty of states to "take steps, both individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development." This phrase primarily refers to wealthy nations. As a result, donor countries acting through their development programs or through the international institutions to which they belong have a responsibility to support institutional development and ease restrictions on productive resources in order to support developing countries' efforts to advance the right to development.

CONCLUSION

The relationship between human rights and development is simple at the theoretical level; both involve the promotion of human well-being; The relationship between human rights and development is simple at the theoretical level, while the first focuses on preventing a power relationship to ensure clarity and elimination of oppression and oppression. Secondly, material and distribution according to individuals can benefit from the financial system. The difficulty lies in the current state of international law governing this relationship. This chapter outlines three dimensions of international human rights and development law; each presents a different approach with varying degrees of political acceptance. As we have seen, the right to development is all about politics without giving the most legal definition of human rights in development, making development itself a human right, making governments in developed and developing countries the same owner of this right. to evolve. Improve possibilities for building equality while integrating human rights into the process. Debate about development support and poverty reduction strategies is less because most governments, parties and many development organizations have recognized the value of human rights cooperation in strategies and response plans and have translated this knowledge into specific development models. in the field of human rights. Differences in the goals and objectives of international trade and investment contradict the recognition of human rights in developing countries. In fact, economic and investment policies have evolved over the centuries to enable comparative economic analysis of the economy through strong economic outcomes. Efforts by the government to justify its pursuit of positive results in restrictions based on human rights obligations have been met with backlash, ranging from indifference to overt violence.

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CHAPTER 7
GENDER AND INTERNATIONAL HUMAN RIGHTS LAW: THE INTERSECTIONALITY

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ABSTRACT:
The intersection of sexuality and international human rights law has turned into a dynamic and diverse field of thought and support. This unique cartoon highlights important themes and issues by showing the relationship between sexuality and human rights around the world. It examines how sexual orientation interacts with various dimensions of human rights, including preferences, politics, economics, social and cultural relations, and reports the importance of understanding people's dangerous encounters between the sexes. Intersectionality is a concept developed by Kimberle Crenshaw as a central framework for examining the many forms of isolation and oppression experienced by people from various marginalized groups. In the context of international human rights law, the recognition and adoption of these qualifications is important in promoting equality, justice and the full realization of human rights for all. This theory also examines the main implications of international principles of revolt, such as the Convention on the Elimination of All Forms of Violence against Women (CEDAW), and its impact on the advancement of homosexuality worldwide. It explores the role of national governments, NGOs and international organizations in promoting and securing gender rights.

KEYWORDS:
Discrimination, Gender-Based Violence, Intersectionality, Sex Discrimination.

INTRODUCTION

A real turning point for feminism occurred during the Fourth World Conference on Women, which took place in Beijing in 1995. The global human rights approach of gender mainstreaming was created at that point as a result of the concentrated feminist effort to confront the historical male bias of international human rights legislation. Following that, multiple UN resolutions as well as the activity of the UN General Assembly and Security Council reiterated the significance of this approach, which effectively implies integrating a gender perspective into every human rights effort. The general public accepted gender, at least in theory. However, productive feminism's involvement with international human rights legislation did not end there. Since then, as the foundation for gender mainstreaming legislation, feminism has continually attacked the basic category of gender [1], [2].

It has achieved this by emphasizing intersectionality in its interaction with the global human rights conversation. Investigating the intersections between gender and "multiple social forces, such as race, class, age, sexuality, and culture" is what intersectionality is all about. It follows that all of those factors influence how we feel gender, which makes it more difficult to grasp the basis of women's disadvantage in a simple, unique way.

In fact, the intersectionality agenda must now be taken into consideration when discussing gender and international human rights legislation. The accusation that feminism retreats into theorizing rather than making a difference in the actual world has been refuted by the tremendous effect feminist theory has had on feminist action and practice in the field of intersectionality.

This chapter examines the rise of intersectionality in feminism and international human rights legislation, evaluating its triumphs and roadblocks.

It also takes into account how internal feminist criticism may help advance intersectionality beyond its current bounds as both a theoretical idea and a global human rights goal [3], [4].

DISCUSSION

Intersectionality has really permeated feminist philosophy and activity over the past several decades. Intersectionality has even been referred to as "the most important theoretical contribution that women's studies, along with related fields, has made so far." It has contaminated the field of international human rights. How did this happen? Intersectionality is both a simple and a complicated concept. According to the academic definition, "multiple axes of differentiation economic, political, cultural, psychic, subjective, and experiential intersect in historically specific contexts" symbolize the "complex, irreducible, varied, and variable effects which ensue." In essence, this indicates that it is impossible to feel 'pure' gender or gender discrimination. Instead, one's experience of being a woman is constantly shaped by their greater sense of belonging in the world [5], [6].

Even while this truth seemed clear, mainstream, white middle-class feminism, as encapsulated by the 19th-century political idiom "Ain't I a Woman?" for a long time struggled to grasp it. This well-known quote is credited to Sojourner Truth, a black woman who was enslaved and uneducated and who advocated for both the abolition of slavery and women's rights. She contested prevalent white, upper-class constructions of womanhood in Akron, Ohio, at the 1851 Women's Rights Convention by saying, "That man over there says that women need to be helped into carriages, and lifted over ditches, and to have the best place everywhere." Nobody ever offers to assist me. And I'm a lady, right? This "deconstructs every single major truth-claim about gender in a patriarchal slave social formation," according to Avtar Brah and Ann Phoenix, and as such matches black feminist views more than a century later. Despite the fact that Sojourner Truth's speech is a significant precursor of intersectionality feminism, the idea of intersectionality as we know it now was more closely reflected in feminist discourse in the 1970s and progressively adopted by mainstream feminism throughout the 1980s and 1990s.

The Combahee River Collective, a black lesbian feminist organization from Boston, was one of the first to pioneer the study of intersectionality. They released a statement in 1977 in which they reaffirmed their dedication to "the development of integrated analysis and practice based upon the fact that the major systems of oppression are interlocked" and "the struggle against racial, sexual, heterosexual, and class oppression." The heteronormative underpinnings of traditional feminist philosophy were revealed in the early 1980s by the works of Adrienne Rich and Marilyn Frye. Denise Riley notably wrote on the difficulty of being exhausted by the category of "woman" in a more generic sense. Early criticisms of mainstream feminist theory and legislation that were mostly made by US black and Latina feminists were connected with intersectionality because they were perceived as imposing the essentialist ideal of the white (middle-class, heterosexual) woman.

In Britain, the "black British feminism" initiative brought together the efforts of women of African, Caribbean, and South Asian descent whose political alliance was meant to combat racism in both white feminism and larger society. According to Brah and Phoenix, the Organization of Women of Asian and African Descent was founded in 1978. They claim that much of the early black British feminism developed out of local women's organizations. The essentialism that was present in the first and second wave feminist groups on both sides of the Atlantic, which were historically controlled by white middle-class heterosexual women, needed to be contested. According to Rebecca Johnson, the growth of intersectionality is constrained by "the past that gave it birth," or feminism's ongoing struggles with essentialism and identity [7], [8].

Intersectionality was first incorporated into feminist legal studies via the fundamental work of American feminist academic Kimberle Crenshaw. Crenshaw stated that the anti-discrimination theory and law's emphasis on conventional identification categories (such as race and gender) excludes those who are at the intersections of those categories, particularly

black women. By arguing that racial and sexual subordination are mutually reinforcing, that black women are frequently marginalized by a politics of race alone or a politics of gender alone, and that a political response to each form of subordination must simultaneously be a political response to both, she claims intersectionality aims to bring together the various aspects of an otherwise divided sensibility. Other than law and human rights, feminist understanding on intersectionality has also exploded [9].

In fact, it has been said that "scholarship on this topic has recently produced a veritable explosion of output." The European Journal of Women's Studies issued a special issue on intersectionality in 2006 (13 (3)), containing papers from many academic fields. According to Jessica Ringrose, intersectionality has had an impact on a variety of fields outside of women's studies, including psychology, European politics, and specialized fields including health, counseling, and sexuality. Evidently, intersectionality is evolving into a paradigm that is prevalent in educational research. Also theorized as a research approach, particularly for empirical study, is intersectionality. Despite the significant theoretical dispute on the categories along which such disparities are created, intersectionality is nevertheless a useful statistical tool for investigating current inequities, according to Leslie McCall.

The Rise of Intersectionality on A Global Scale

Because of Crenshaw's work's significant impact, intersectionality is now prominently discussed in legal theory, practice, and feminist legal action across the world. The Beijing Platform for Action urged governments to step up efforts to ensure that all women and girls, who face numerous obstacles to their empowerment and advancement because of things like their race, age, language, ethnicity, culture, religion, or disability, or because they are indigenous people, are equally able to enjoy all human rights and fundamental freedoms. Intersectionality has now gained significant conceptual traction in both international human rights movement and legislation. According to the General Comment on Equality of Rights between Men and Women published by the UN Human Rights Committee (the "HRC") in 2000, discrimination against women is frequently linked to discrimination on other grounds, such as race, color, language, religion, political opinion, national or social origin, property, birth, or other status. States parties shall disclose how any instances of discrimination on other grounds specifically impact women and provide details on the steps taken to rectify these effects.

Gender has firmly entered the UN legislation and practice addressing racial discrimination as a result of ongoing activist advocacy of intersectionality as "a springboard for a social justice action agenda" and related scholarly work. In its General Recommendation XXV on the Gender Related Dimensions of Racial Discrimination, published in 2000, the UN Committee on the Elimination of Racial Discrimination (CERD) acknowledged for the first time that "there are situations in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men." The recommendation lists coerced sterilization of indigenous women, sexual violence against women who work in the informal sector or as domestic workers abroad, and sexual assault against women who are members of specific communities who are engaged in detention or armed conflict [10], [11].

Additionally, it recognizes the particular effects of racial discrimination on women, including pregnancy and social exclusion after racially motivated rape. Women's access to legal remedies for racial discrimination is reportedly hindered by gender prejudice in the judicial system and discrimination against them in private life. The CERD has more recently shown its awareness of how factors like descent interact with gender to produce specific forms of discrimination, in line with the Recommendation's assurance that "the Committee will endeavor in its work to take into account gender factors or issues which may be interlinked with racial discrimination." The disadvantageous state of Roma girls and women in the areas of education and health has been noted in another general suggestion. The Committee has

"sought to take into account gender factors or issues which may be related to racial discrimination" in the field of noncitizen protection. It has recognized the disparate treatment of non-citizen women who are married to citizens as well as the maltreatment suffered by the children and wives of non-citizen employees.

Additionally, states parties are urged by CERD General Recommendation XXX on Discrimination Against Non-Citizens to address particular issues affecting non-citizen domestic workers, such as financial bondage, passport detention, unlawful incarceration, rape, and physical violence. The 2001 World Conference against Racism, Xenophobia, and Related Intolerance (WCAR), which was held in Durban, South Africa, gave special attention to intersectionality concerns. The final version of the Durban Declaration makes reference to the "diverse manner" in which "racism, racial discrimination, xenophobia, and related intolerance reveal themselves." For the purpose of addressing numerous types of discrimination, it is necessary to include a gender perspective into pertinent policies, strategies, and programs of action against racism, racial discrimination, xenophobia, and associated intolerance. This was primarily made possible by the feminist NGOs that persistently pursued this agenda on a global scale. Feminist academics' research influenced their efforts, and Crenshaw even gave a background presentation at the Expert Group Meeting on Gender and Race conducted by the UN Division for the Advancement of Women in Zagreb, Croatia, before to the 2001 World Conference.

The Center for Women's Global Leadership (CWGL), which declared it "an occasion to renew our commitment to looking at the intersection of racism, sexism, and other oppressions in a rights-based context as we must keep the effects of multiple oppressions central in all our work," played a particularly important role in centering the intersectionality agenda on Durban. In addition to exposing the range of women's experiences, CWGL pioneered "the expansion of existing methodologies and the design of new methodologies that address intersectional discrimination, which seek to address discrimination that occurs when multiple identities intersect." The UN Commission on the Status of Women ('CSW') special session in March 2001 called on governments and the international community to: Develop methodologies to identify the ways in which various forms of discrimination converge and affect women and girls and conduct studies on how racism, racial discrimination, xenophobia, and related intolerance are reflected in society. This was in response to the lobbying efforts of CWGL and other women's groups at various preparatory meetings prior to the WCAR. The four components of a methodology to address intersectional discrimination were advanced by a Working Group on Women and Human Rights that was active during the CSW session. These elements were disaggregated data collection, contextual analysis, intersectional review of policies, and design and implementation of intersectionality policy initiatives.

Cross-sectionality issues

Although intersectionality has clearly been successful, there are still issues to be resolved. 'Intersectionality' in feminist discourse is assumed to have at least two dimensions:

(1) an issue with subjectivity including a specific paradigm based on unique identification categories; and

(2) The interaction of several oppressive systems or power structures in society.

According to Nira Yuval-Davis, "the analytical attempts to explain intersectionality are confusing," in relation to the 2000 Zagreb summit, since these two dimensions have arguably tended to function as fairly distinct analytical categories in feminist theory and practice. Overall, the first interpretation which refers to a person's blend of several identification characteristics has been more prominent. According to McCall, the term "intersectionality" for instance, "immediately suggests a particular theoretical paradigm based in identity categories." It is debatable whether the concept's implementation has tended to depend on

overlapping, if not cumulative, identities, despite the fact that many researchers hold the opinion that intersectionality "emphasizes that different dimensions of social life cannot be separated out into discrete and pure strands."

Crenshaw uses the metaphor of a crossroads to describe intersectionality: Intersectionality is what happens when a lady from a minority group attempts to cross the major street in the city. 'Racism Road' is the major thoroughfare. Colonialism, followed by Patriarchy Street, might be one cross street. She must cope with all types of oppression, even those denoted by road signs, which connect to create a double, triple, multiple, or many-layered blanket of oppression. As a result, a person is seen as being made up of (discrete) identity components including gender, race, sexual orientation, religion, class, and so on. This is troubling since it seems to negate intersectionality's central tenet, which holds that one strand of identity (gender) cannot exist apart from others. The four-step process used by the CSW, which is well lauded, already contains this paradox. Disaggregated data gathering, according to Yuval-Davis, is compelled by the myth of 'unambiguous and mutually exclusive categories'. Additionally, the technique of collecting data in disaggregated forms can be in conflict with the core tenet of the indivisibility of human rights.

But this second interpretation of intersectionality has tended to be less well-known and has even received better treatment under other headings. Human rights advocates who work on what can be referred to as intersectional problems have been found to avoid using the phrase in their work because they might feel that they are already addressing the complexity of social injustice in other ways. In terms of theory, there is a wealth of material that examines the complexity of modern modalities of power, a feature that advocates of intersectionality sometimes overlook. For instance, the extensive literature on governmentality, which examines how late modern subjects are created via discourses of power, almost ever (and maybe needlessly) uses the word "intersectionality." As a better theoretical substitute, Davina Cooper has suggested the idea of "organising principles." She explains organising principles as: (1) not just operating between subjects, but also as organizational processes, social practices, and norms; (2) not linear, but asymmetrical and contradictory; and (3) not just imposed from "above," but a fundamental component of a community's structure and individual practices.

Insofar as it serves strategic or political purposes, this refers to a passive grouping of persons based on structural links that is "too impersonal to ground identity." In this framework, gender continues to be a valuable category for study inasmuch as it continues to be a significant social organizing principle. Insofar as gender-related disadvantage continues to have an impact on people's lives, it also serves as a suitable foundation for political affiliations. In this approach, a "gender identity" can only be understood in the context of its political function and conditionality. Intersectionality has drawn criticism for fragmenting both subjectivity and the factors that influence it because it places inadequate attention on the larger, structural elements. Judith Butler and Wendy Brown, two well-known feminist and critical theorists, have argued that it is inaccurate to conceive of gender in isolation from race or of race as devoid of any inflection of gender or sexuality.

The futility of conceiving of the person as an atomistic, disinterested, or "relentlessly self-interested" being has been emphasized by a number of subjectivity literature streams. For example, according to Félix Guattari, "an individual is already a "collective" of heterogeneous components" because of "the fundamentally pluralist, multi-centered, and heterogeneous character of contemporary subjectivity." Even though they write in very different tones, feminist writers as disparate as Iris Marion Young, Toril Moi, and Wendy Brown all concur that structural influences must always be internalized by the person before distinct identity components can be properly defined. In addition, Brown has emphasized that

since issues related to gender, sexuality, ethnicity, religion, and other factors are not similar, the social forces that shape identity are not just diverse but also various types of powers.

CONCLUSION

Joan Wallach Scott once wrote that the history of feminism is "a history of working to reduce women's diversity (class, race, sexuality, race, politics, religion, and economic society) to achieve a traditional woman." She was mostly against patriarchy, she. (a method of male domination). But this is only, as Gail Rubin famously put it, in fact the feminist movement has for some time been driven by another central issue, namely the need to think about the oppression of women. more than three decades ago "inexhaustible diversity and monotonous similarities." Intersectionality aims to do this because it says that "pure" gender does not exist, and that gender alone does not explain the persisting inequality among women around the world. It can be argued that intersectionality is a success story of feminism in at least two respects. First, it has become a very useful process in the field of international human rights, as feminists have succeeded in integrating these ideas into the UN's core areas of work, human rights. Second, a space where feminist theorists and activists work together, where imagination plays a role in the "real world." Both successes should be welcomed and celebrated. However, concerns have recently been raised about the junction's limited capacity. It has been criticized for splitting the issue and thus dealing with the implementation (rather than promotion) of human rights development. Perhaps this is an event that will not occur in a successful strategy. But if feminism is to continue to impact the lives of real women, it must also embrace internal critique. This does not necessarily mean abandoning intersectionality as a legacy. Instead, it means accepting the limitations of intersectionality, using it more wisely, and achieving this with a greater focus (if less desirable) on methods and tools.

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CHAPTER 8

REFUGEES AND DISPLACED PERSONS: THE REFUGEE DEFINITION AND 'HUMANITARIAN' PROTECTION

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ABSTRACT:
The worldwide refugee crisis has led to the need to identify who qualifies as a migrant and to seek ways to achieve "people recognition" for those who have faith. This article highlights the complexity of defining immigrants and the broader concept of 'humane' recognition. It shows the progress of displacement in the 21st century by analyzing the legal and ethical commitments of national and international organizations to migrants and refugees. This article primarily examines the law supporting the definition of immigrant, the importance of the 1951 immigrant tradition and the 1967 Convention. It discusses the process and content of the issue, focusing on its relevance to contemporary displacement situations, including those resulting from property disputes, use, natural conditions, and sexual or gender-based abuse. An episode explores "humanitarian" security as an alternative to emergency displacement. It covers a range of effective security measures, from temporary shelters to transit routes, and examines their ability to protect the rights and well-being of IDPs and their families.
KEYWORDS:
Humanitarian Protection, Internally Displaced Persons, Refugee Definition, Stateless Persons.

INTRODUCTION

The debate in this chapter was sparked by a lecture given by a renowned Italian professor who was distraught about the 'problem' of refugees in Italy, which is being caused by an increase in the number of people trying to go there by boat from North Africa and Eastern Europe. The scholar distinguished between "refugees" and "humanitarian entrants" in this lecture. In particular, it was argued that people who were fleeing for economic reasons or people who were fleeing widespread violence were not "proper" refugees as defined by the 1951 Refugee Convention (the "Refugee Convention"), and that if states decided to help them, it would be for "humanitarian" reasons. The talk's context made it plain that a very limited definition of a refugee was being used. The speaker defines a refugee as someone who runs away from civil or political oppression. If this misconception becomes widely accepted, Italy, as well as Europe and other industrialized nations, will undoubtedly be experiencing a "refugee crisis," or crisis of meaning. In this chapter, I contend that a misunderstood definition of "humanitarian protection" and misunderstanding of the word "refugee" are to blame for the present malaise of the international system of refugee protection (as seen by Mediterranean governments' current unwillingness to process migrants coming by boat). I propose that industrialized governments employ a dichotomy they have established between the idea of humanitarian protection and the legal definition of a refugee [1], [2].

Humanitarian protection is often connected with government "largesse" or discretion, with the concept of extra-legal remedies, when it is provided to refugees and asylum seekers escaping violence or economic distress. The result of this duality is to impose state border control or sovereignty under the guise of "humanitarianism," decouple the Refugee Convention from its overarching humanitarian and human rights objective. Thus, it reinforces the idea that there are "genuine" refugees and "bogus" or "non-genuine" refugees.

Additionally, as I will show below, civil conflicts, widespread violence, or the denial of social and economic rights are the primary causes of departure today. Therefore, a narrow interpretation of the Refugee Convention allows nations to deny protection to the majority of refugees across the globe.

This chapter's main claim is that restricted policies toward refugees and interpretations of the term "refugee" reveal a hazy grasp of what "humanitarian" really means. The term has several contextual implications, as seen by the aforementioned quotes. The generic word "humanitarian," traditionally connected with ethical and religious implications, has at its root the concept of care for mankind. This chapter explains how, in the wake of World War II's horrors, this definition of "humanitarian" was incorporated into international humanitarian law. Later, the concepts of "humanitarian intervention" and "humanitarian assistance" were employed to characterize the rationale for military involvement in certain governments and the protection provided to refugees, respectively. Such intervention or help has quite diverse legal origins [3], [4].

My main contention is that "humanitarianism" has become politicized and alienated from its original definition as a result of the confluence of several ideologies. Two key parts make up the development of the argument. I begin by discussing the creation of the concept of a refugee under the 1951 Refugee Convention, the role of the UNHCR in addressing refugee issues, and the definition of internally displaced individuals (IDPs). I point out in that conversation that the UNHCR's mission includes both refugee protection and humanitarian protection. Second, I'll quickly discuss the history of the concept of "humanitarian protection" for refugees to show how this clear principle has been confused. First, a quick overview of the present state of refugees and displaced people throughout the world is given.

DISCUSSION

There is little question that the system in place for protecting refugees internationally is under pressure. Although the 1951 Refugee Convention has a definition of a "refugee" that includes 11.4 million refugees, the concept does not apply to a significant number of the estimated 51 million people who are displaced worldwide since they have not crossed an international boundary. 26 million people in this generation are impacted by what the UNHCR refers to as "conflict-induced internal displacement." Another common reason people go abroad to seek refuge is conflict. According to figures provided by the UNHCR, the majority of asylum applicants come from Iraq, followed by the Russian Federation, China, Somalia, Afghanistan, and Serbia. Both the number of displaced people worldwide and their overall number are rising again after a period of decrease. The majority of the time, this situation takes place in nations that are far from the industrialized nations that set global refugee protection policies. Additionally, over the last 20 years, those industrialized governments have consistently enacted stringent non-entrée policies and interpretations of the concept of a refugee that restrict access to protection under international law in such states. Eighty percent of refugees who have fled their nation stay in the same area, and the number of people in "protracted refugee situations" is growing. Urban refugees, or those who reside in cities and are recognized as refugees by the UNHCR, have grown in number concurrently. These people are looking for a "durable solution."

These changes are taking place in a globalized world where 200 million individuals are thought to be residing outside of their country of origin. According to some theories, the majority of people move away from their birthplace because there is a need for their labor elsewhere and they are unable to support themselves there. 'Regular' (legal) and 'Irregular' (illegal) migrants are included in this group. Asylum seekers are included in the latter category. While most people relocate to start new businesses, raise their standard of living, join family members, or pursue educational opportunities, those who are of concern to UNHCR are compelled to leave by human rights violations and armed conflict. This is how a

recent UNHCR Discussion Paper describes UNHCR's role in this context. This situation highlights a second crucial element in the worldwide refugee situation that has influenced how industrialized governments that are hosting refugees have responded. Since many are escaping economic difficulties brought on by post-conflict conditions or as a consequence of continuous discrimination, the distinction between an asylum seeker and a "illegal migrant" is sometimes blurry. Refugees are often compared to "mere" "economic migrants" in the context of global migration or referred to as "economic refugees". The term "migration-asylum nexus," as it is used in this context, focuses on the "mixed flows" of illegal (economic) migrants and asylum seekers. The'migration-asylum nexus' has the consequence of treating refugee protection requirements as a secondary concern to migration restrictions. This is the context for the inclination of industrialized governments to label as "humanitarian" any protection provided to "economic refugees" or those escaping violence who enter their territory. Such recipients of 'humanitarian' protection are seen as being beyond the purview of the legal definition of a refugee. Now let's explore how the meaning of the term "refugee" has evolved [5], [6].

The definition of a refugee under the Refugee Convention, the UNHCR's mission, and "humanitarian protection"

Globally, rather than being a response to the needs of individual refugees, the post-World War II international system of refugee protection has mostly evolved in response to refugee crises and enormous influxes. This indicates that the reality does not accord with the legal position, as the growth of the Refugee Convention definition historically reveals. Due to targeted strategies of "containment" or "warehousing" of certain groups of migrants, the world's population of refugees and internally displaced people is, as the statistics cited above reveal, mostly out of the view of industrialized governments. The Refugee Convention, which was negotiated in the years after World War II, was created to address the issue of 1.25 million refugees who had fled to Europe because of the unrest that followed the war. It was aimed in especially towards those who had fallen victim to the Nazi and other fascist regimes. This is acknowledged by the definition of a refugee, which states that a refugee is a person who has a "well-founded fear of persecution" because of "events occurring before 1 January 1951" (Article 1A (2)), with states having the option to limit their obligations to refugees from Europe under Article 1B. The Protocol Relating to the Status of Refugees of 1967 (the "Refugee Protocol") removed these temporal and geographic limits, seemingly indicating that refugees are not restricted [7], [8].

In addition to giving a more specific description of what a refugee is, the Refugee Convention made it clear that it was a tool for defending human rights. The Refugee Convention was an example of the development of a system of international law and institutions meant to provide reactions and remedies to a global issue. It was a result of European events and was mediated (mostly) by European governments. One should not undervalue the significance of the UNHCR's formation in 1951 to oversee the UN General Assembly's (the "GA") administration of the Refugee Convention. This action foresaw the creation of extensive human rights instruments designed to acknowledge the universality of human rights. Notably, the Refugee Convention's Preamble relies on a reference to the Universal Declaration of Human Rights to explain its fundamental human rights foundation.

According to Michelle Foster, a prominent refugee law expert, the Refugee Convention should be considered in the context of the growing corpus of international human rights law given the reference to it in the UDHR's Preamble. According to James Hathaway, the instruments that preceded the 1951 Convention were either motivated by the need to protect individual human rights or by "humanitarianism," which James Hathaway defines as "an attempt to accommodate the reality of a largely unstoppable flow of involuntary migrants across European borders."

The main flaw with the Refugee Convention was that it limited the applicability of such protection to certain groups of people who were the targets of human rights violations rather than being universal. Thus, in this context, it is clear that the Refugee Convention is a tool for protecting human rights. It was created to put into practice the fundamental right to freedom from persecution, the right to seek and receive asylum, and the right to be protected from being refouled or being forced to return to a place where one's "life" or "freedom" is in danger (Article 33(2)). A person who is outside their country and has a "well-founded fear of being persecuted for reasons of" one of the five grounds listed in Article 1A(2) is referred to as a refugee. These grounds include race, religion, nationality, membership in a specific social group, and political opinion. This was a notable change from earlier refugee instruments, which offered a broad, descriptive description of refugees. It is now widely accepted that the Refugee Convention and its components, including the definition of "persecution" and "being persecuted," should be interpreted in the context of human rights, with specific reference to the norms established by the major human rights treaties [9], [10].

According to Hathaway, the Refugee Convention was 'seldom believed to be the major point of reference' for refugee rights. However, in reality, the definition's elements—which are themselves vaguehave been construed narrowly for particular types of claims, especially those involving war and human rights abuses, which the UNHCR maintains are the main causes of emigration. Because the words "for reasons of" have been interpreted to require a strict nexus, or causal link, between the "predicament" of the applicant for refugee status and one of the stated Convention grounds, it has been determined that the definition of "refugee," which applies to individuals, requires "targeted" persecution. Because the injury experienced by an individual is indistinguishable from that experienced by a wide section of the community at large, those caught up in civil war or escaping violence may find it difficult to qualify as refugees under the terms of the Refugee Convention.

A difference has been drawn in the context of civil war and internal conflict between laws or activities that apply to the entire public (and are therefore ostensibly not persecutory by nature) and those that target a specific person or group of people (and may thus constitute "persecution"). The refugee convention was intended to cover denial of or discrimination on the basis of all human rights, including the so-called "second generation" social and economic rights, but it is a restrictive approach to interpret the refugee convention to only cover abuses of civil and political rights (as did the Italian inspiration for this discussion). As a result, receiving governments' stringent interpretations prevent a sizable percentage of refugees from gaining protection. Such constrictive views are consistent with how the global refugee system has evolved over time. In the Cold War era, crises like the 1956 Hungarian uprising and the 1968 Czech uprising highlighted the ideological underpinnings of the 1951 Refugee Convention's individualized concept of refugee protection (and thus supported a reading of the definition that was centered upon civil and political rights). But beginning in the 1970s, refugee crises in other regions of the globe, namely in Africa and Asia, gave birth to the idea that the refugee issue was not exclusive to Europe and called for other solutions [11], [12].

The 'humanitarian' aspect of refugee protection was underscored by these events, as we will see in the next section. In order to cope with new mass refugee situations, such as Chinese refugees escaping communism and refugees from African governments afflicted by decolonization, civil wars, and independence movements, the UNHCR sponsored the 1967 Refugee Protocol. The Refugee Protocol did not provide the UNHCR the additional authority it sought to deal with particular groups of refugees, while acknowledging the global character of the issue, the universality of refugee rights, and the potential for global solutions. The result of this incident was the establishment of a distinction between those who flee individualized persecution and are eligible for refugee status under the 1951 Refugee

Convention and those who flee generalized violence and may find it challenging to establish that they are being persecuted as individuals for purposes of the Refugee Convention. The Protocol's development process also highlighted the conflict between state interests and the UNHCR, which depends on the same governments as donors to carry doing its functions.

An overview of the UNHCR's participation in such situations provides an example of how its function and mission have evolved gradually and adaptably through time. The UNHCR was given permission by the GA in 1957 to use its "good offices" to assist mainland Chinese refugees in Hong Kong. In 1959, the 'good offices' mandate was once again applied to refugees in Morocco and Tunisia. A further enlargement of its protection function, dating back to the years before 1951, was the grant of prima facie status to certain refugee groups without the necessity for individual assessments. The concepts of humanitarianism and personal protection were so obviously intertwined in this setting. The phrase "refugees and displaced persons of concern," used by the GA since the mid-1970s, is where the word "persons of concern" first appeared in modern statistics reports. This phrase was specifically used to characterize UNHCR work in Vietnam and the Sudan. The legal nuances of whether they were'refugees' were avoided at this time since the phrase 'displaced individuals' was used to describe victims of nations torn apart by civil conflict.

The UNHCR was hesitant to give this group of internally displaced people prima facie status at this time or to refer to them as refugees. In order to strengthen the contrast between the legal status of "refugee" and humanitarian status, it has been argued that this category of displaced people originated from humanitarian need rather than legal status. In particular, the refugee crisis in Indochina in the 1970s and 1980s, when up to three million people left in the two decades after 1975, helped the UNHCR strengthen its mission. The UNHCR tried out a variety of measures throughout this crisis, always under the watchful eye of donor nations and regional partners. For instance, prima facie status was first given to 600,000 individuals who escaped Indochina between 1975 and 1979. Later, the idea of transient defense was used. The Comprehensive Plan of Action (the "CPA") for IndoChinese Refugees was subsequently developed with help from the UNHCR.

The CPA came into being in two phases. As a consequence of pressure from the Association of Southeast Asian Nations (the "ASEAN"), the United Nations Secretary-General mediated the first stage in 1979, which entailed temporary shelter followed by relocation in a third country. It was accompanied by an Orderly Departure Programme ('ODP') in an effort to prevent unauthorized departures. However, the official CPA, which placed a strong focus on voluntary returns and reintegration in the country of origin, was introduced in 1989 as a result of the issue's ongoing escalation. The Malaysian government asked the UNHCR to organize a second international meeting on this case, and the ASEAN once again took part. The CPA was finally decided upon in a Geneva Conference between the UNHCR, 50 resettlement countries, and the countries of first asylum on June 13-14, 1989.

The UNHCR's involvement in the CPA's implementation is highly contentious. Although nations in the area first granted refuge, they ultimately refrained from ratifying the Refugee Convention due to the CPA's focus on orderly departures and resettlement. The present lack of support for refugees in the South East Asia area has been attributed to the UNHCR's pragmatic approach to the issue. The UNHCR's creation of guidelines to promote consistency in practice across the area helped in the processing of asylum seekers in countries of first asylum, although this action also drew criticism. However, since the UNHCR's obligation under the CPA in this regard was to "observe and advise," individual nations continued to have authority over the selection procedure. However, several criticisms of the procedures and the UNHCR's alleged unwillingness to take greater initiative in this regard have surfaced. Additionally criticized was the UNHCR's assistance with 'voluntary' repatriation to Vietnam.

The UNHCR also assumed a humanitarian role at this time, which required keeping an eye on the circumstances in the country of origin for individuals who stayed or were repatriated. The UNHCR came under fire for pursuing 'humanitarian' initiatives in Vietnam too aggressively, in violation of its 'non-political' mandate. Overall, the UNHCR's participation in the CPA revealed the intricacy of its job as well as a flexible and practical implementation of its mission. It's significant that the phrase "displaced persons" was coined during this crisis. The UNHCR's position has evolved gradually over the last 20 years, becoming more solution- and protection-focused rather than constrained by legal definitions, thanks in large part to the CPA. For instance, UNHCR was crucial in organizing aid for the South East Asian tsunami tragedy in 2004. Additionally, it recently made it known that it was in favor of finding solutions for "environmental refugees" who did not technically fit the description of a refugee under the Refugee Convention. As a result, it views its mission for humanitarian protection as include organizations and individuals who do not come within the legal definition of "refugee" or the precise parameters of its mandate in compliance with the definition of "humanitarian," which is "having regard to the interests of humanity at large." Or, to put it in a more positive light, it sees its responsibility to refugees as part of a larger humanitarian obligation.

CONCLUSION

In this chapter I have found the prohibitive reactions of industrialized states to displaced people and refuge searchers inside a twofold between the lawful status of a outcast (as imagined by the Outcast Tradition) and the idea of compassionate assurance as 'extra-legal'. In specific, I have alluded to prohibitive elucidations of the individualized Displaced person Tradition definition, as within the case of people escaping strife or separation on the premise of dissent of social and financial rights, to demonstrate the point. I have too pointed to the propensity of industrialized states to utilize plans for complementary and brief assurance as 'humanitarian protection' input of giving displaced person status as advance prove of the utilize of a parallel. I have pointed out that this parallel shows up within the UNHCR's command, but that the UNHCR has reliably considered displaced person assurance to be a perspective of its common compassionate part.

I have contended that there's a cooperative energy between the legitimate definition of a displaced person and 'humanitarianism', as shown by the human rights setting of the Displaced person Tradition. Prohibitive reactions to displaced people and to elucidation of the displaced person definition reflect a confounded understanding of the meaning of 'humanitarian' and limit readings of the Outcast Tradition definition. It seems that in this setting 'humanitarian' has ended up synonymous with state caution and border security, instead of with human rights security. In other words, the utilize of the term 'humanitarian protection' by industrialized goal states in connection to outcasts denies assurance to the Displaced person Tradition.

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CHAPTER 9

AN OVERVIEW OF INTERNATIONAL CRIMINAL LAW AND ITS CORE PRINCIPLE

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ABSTRACT:
International Criminal Law (ICL) lays the foundation for the world system of legality designed to combat intolerable transnational crime, stimulating the inner voice of the people. The theory provides a picture of the main elements and processes that make up the ICL symbol. ICL can be a multidisciplinary approach involving conflicting laws, international regulations, legal standards and international criminal law areas. court. Its main purpose is to hold people accountable for the worst crimes such as murder, war crimes, crimes against humanity and terrorism. The core principles of the ICL include individual liability, where individuals, not states, are sued; prohibiting protection for criminals, calls for attention and discipline, regardless of their life or work; Appropriate and due diligence standards to ensure a fair trial for those appointed.
KEYWORDS:
Crimes Against Humanity, International Criminal Court (ICC), Nuremberg Trials, Jurisdiction, Extradition.

INTRODUCTION

'International criminal law' has several different connotations. It traditionally refers to the global dimensions of domestic criminal law. It is about the legal problems that come up while trying cross-border criminals. States come to agreements and conventions on how to go about bringing such crimes to justice. An key factor in this kind of "internationalized" criminal law is state sovereignty. It is known as transnational criminal law, horizontal international criminal law, or droit pénal international, among other names. Extraterritorial jurisdiction, extradition, police and judicial cooperation, transfer of criminal proceedings, and transfer and execution of foreign court judgments are typical topics covered by this form of legislation. To form such inter-State cooperation, several treaties have been signed; some extradition treaties date back to the 16th century. Bilateral or multilateral agreements for criminal cooperation are also possible. Multilateral agreements are often the result of collaboration between members of a regional or global organization, such the Council of Europe or the United Nations (the "UN"). The European Union (the "EU") has been actively establishing a criminal cooperation system for its Member States in recent years. It is based on the principle of "mutual recognition" of foreign judicial decisions, which restricts the exercise of state sovereignty and requires States to recognize foreign judicial decisions as if they were their own. This more informal and effective regime replaces the traditional inter-State criminal cooperation regime of the Council of Europe. This section of international criminal law shall be referred to as "transnational criminal law" throughout [1], [2].

The second subset of international law that deals with crime is known as international criminal law. It controls how a select group of "core crimes," or so-called international crimes, are prosecuted. Genocide, crimes against humanity, war crimes, and aggression are all considered to be crimes that are universally denounced and are punishable by law on a global scale. Because they are defined and evolved in international treaties, international law, customary law, or the case law of the international criminal courts, all four crimes have a history on the international stage. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the "CAT"), on the other hand, defines torture as a

kind of crime that is not typically considered to fall within the purview of international crimes. Despite having an international history thanks to its definition in a treaty, it is not included in an international criminal code, at least not as a self-standing offense. Torture that takes place during an armed conflict may be classified as a war crime or a crime against humanity if it is part of a widespread or organized assault. International crimes are increasingly being tried at the national level, often on the theory of universal jurisdiction [3], [4].

In contrast to transnational criminal law, this area of international criminal law has its roots in international law. Furthermore, compared to transnational criminal law, State sovereignty is not as important or conspicuous. This results from the relevant collaboration system, which governs how States must cooperate with special international tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), as well as the International Criminal Court (ICC). The terms international criminal law per se, supranational criminal law, vertical international criminal law, and droit international pénal have all been used to describe this sort of international criminal law. We shall refer to it as "international criminal law" in this chapter. The two divisions of international criminal law have in common that they are situated on the dividing line between criminal and international law. These two categories of law are fundamentally different. While criminal law deals with persons, international law deals with States as its subjects. Unwritten, flexible standards of customary international law are sources of international law. The idea of legality, on the other hand, mandates that criminal legislation must have explicit written regulations. As will be seen later, the intersection of these two fields may place the accused in a difficult situation [5], [6].

The ideas and laws that make up international criminal law will be covered in Section 2. As part of the customary inter-State cooperation in criminal cases, extradition, mutual legal aid, the transfer of proceedings, and the execution of sentences shall be covered in Subsection 2A. The European Arrest Warrant (often known as the "EAW") is a novel method of interstate cooperation that will be discussed in Subsection 2B. The main topic of Section 3 will be international criminal law. An overview of the international(ised) courts and tribunals that trial people charged with international crimes follows a historical introduction to prosecution at the international level in Section 3A. The topic of substantive international criminal law, including definitions of international crimes, criminal liability, and defenses, will be covered in Subsection 3B. Subsection 3C, which transitions from substantive law to procedural law, focuses on international criminal process, a newly-emerging area of international criminal law. The collaboration between States and international courts and tribunals is the subject of subsection 3D. The two subfields of international criminal law meet here. Finally, Section 4 will illustrate the person's status in both international criminal law in general and transnational criminal law specifically [7], [8].

DISCUSSION

The ability of a State to work with other States in the investigation, prosecution, and determination of transnational crimes, crimes perpetrated by its citizens abroad, and crimes committed by foreigners inside its boundaries is referred to as international legal cooperation. It is possible to distinguish between main and secondary legal collaboration. Measures that allow for the transfer of a crucial aspect of the criminal process, such as the prosecution of a crime or the imposition of a punishment, are referred to as primary legal cooperation. Various types of assistance to another State, such as the extradition of a suspect or convicted individual, are included in secondary legal cooperation. Another distinction that can be drawn between legal cooperation actions is between actions that can be taken before a conviction has been entered, such as extraditing suspects or transferring prosecution, and actions that can be taken after a conviction, such as extraditing criminal defendants and transferring

sentences. We'll go through the four most significant legal collaboration issues in the paragraphs that follow.

Extradition

The earliest method of inter-State cooperation in criminal situations is most likely extradition. A person is turned over to another State upon being charged with a crime there or remaining at large against their will after being convicted. Some countries only extradite people in accordance with treaties, their constitutions, or extradition laws. Although extradition treaties are not required under international law, numerous States have signed them. Such agreements guarantee reciprocity with respect to contractual responsibilities and offer legal clarity. Additionally, by signing extradition accords, States demonstrate their confidence in one another's criminal justice systems. When an extradition treaty is in place, the judge and executive are free to extradite suspects to any country without first considering whether it is appropriate or even legal [9], [10].

Refusal reasons

Extradition agreements are a result of nations' shared desire to fight crime. States typically still have the authority to reject extradition petitions, however. In reality, several States have curbed their cooperation by enacting declarations, reservations, and reasons for refusal, allowing them to require assurances and protections before making extradition decisions. Ne bis in idem, trials in absentia, the prosecution of children, and the extradition of citizens are all justifications for refusing to participate. This pervasive practice of reservations and refusal justifications suggests that signatories to an extradition pact maintain some kind of sovereign immunity. There are several bilateral extradition agreements between States. The environment of regional and international organizations has seen the signing of multilateral extradition accords. The most significant accords in Europe, such as the 1957 European Extradition Convention, have been negotiated and approved under the auspices of the Council of Europe.

On the other hand, no norm of international law requires States to blindly trust another State and to work with it without restriction, which is why the rejection reasons mentioned above exist. In this regard, the doctrine of double criminality and the rule of specialization might also be addressed. The underlying conduct or omission must be illegal in both the seeking and the solicited States in order for the double criminality concept to apply. A State shouldn't be obliged to extradite a person to another State for an offense that wouldn't qualify as a criminal under its own laws, which is the main justification for this regulation. The legality precept (nullapoena sine lege), according to some, is strongly related to the double criminality concept, while other others maintain that it safeguards the subject's human rights. Within the EU, cooperative agreements that eliminated the necessity of double criminality have recently been enacted. For a select few offenses, the EAW, for example, eliminates double crime. These offenses are regarded as being so severe that they constitute felonies throughout the EU. Below, we'll go into greater information about the EAW. According to the rule of specialty, the requesting State must only file charges against the extraditee for the crime(s) for which they were sought. When the requested State or the requested individual agrees to the prosecution of, or the execution of a punishment for, additional offenses, the rule of specialization may be waived [11], [12].

Method For Extradition

The requested State's laws and customs regulate the extradition process. There is often a two-tiered decision-making structure in place. While the decision to actually surrender is made by the executive branch, the court evaluates the procedural conditions and validity of the extradition request. This "dual key" decision-making is particularly pertinent when it comes to rejection grounds that touch on delicate subjects, such the human rights situation in another State. It is believed that the Executive is best suited to handle such sensitivities. As we'll see

below, the EAW establishes a wholly judicial process, with the Executive having been eliminated to speed up and improve the process. A trial as defined by Article 6 of the European Convention on Human Rights (the "ECHR") is not what happens during an extradition proceeding since it is not a typical criminal procedure. If a convicted individual is being extradited to carry out a sentence, the trial to decide guilt or innocence will have already taken place or will be held in the state making the extradition request. Normally, the individual sought out will be given a chance to be heard and a chance to voice any objections to extradition. The prosecution in the requested State, however, is not required to show that the desired individual is guilty; thus, the presumption of innocence does not apply. Instead, the onus is on the individual making the request to refute guilt. When the subject of the request can categorically show that he or she is innocent, extradition will be rejected.

Extradition is a formal, drawn-out process. Before a person gets extradited, months may pass. Furthermore, a request for extradition does not always ensure that the subject will be allowed entry into the territory of the State making the request. After all, reasons for rejection like the political offense exclusion may make extradition difficult. States have turned to extrajudicial methods to arrest the fugitive and bring him or her before their courts in order to get around ineffective or non-extradition. Israeli spies kidnapped Adolf Eichmann from Argentina so that he might stand trial for genocide in Israel. Argentina complained to the UN against Israel for breaching its territorial sovereignty since it had not given its assent to the kidnapping. In its recent campaign against terrorism, the US has used on "extraordinary rendition." Terrorist suspects are apprehended and sent around the world to be questioned and maybe tried. These 'alternatives' violate international law's rules on State sovereignty and human rights.

The law is unequivocal when it comes to the human rights of the person who is the subject of a rendition or abduction: no State may ever transfer a person to a location where that person is likely to be tortured, and definitely not with that aim. This has been verified in the Agiza case before the CAT committee and the Alzery case before the Human Rights Committee. Extrajudicial alternatives to extradition are illegal under international law, but that does not imply a court should relinquish its ability to trial someone once they have been brought before it. Jerusalem's District Court made the decision to employ its legal authority to prosecute Eichmann. According to the proverb male captus bene detentus, several national courts have long been willing to hold accused people accountable regardless of the shady methods employed to capture them. The abuse of process concept, which mandates that a court deny jurisdiction and halt proceedings when the defendant was brought to court unlawfully or because his human rights were abused, has sometimes replaced the male captus rule in recent years. Courts in New Zealand, South Africa, and England have used this theory. The United States does not acknowledge the abuse of process doctrine.

The male captus bene detentus principle was upheld by the ICTY in the instance of a Bosnian Serb who was taken against his will from the Republika Srpska and given to NATO troops, who subsequently transported him to the The Hague-based tribunal. The Appeals Chamber determined that because there was no proof that the accused's rights were flagrantly violated during the course of his arrest, the procedure used for his arrest did not prevent the Trial Chamber from exercising its jurisdiction. This was done in order to weigh the interests of the accused and his human rights against those of the international community and the legitimate expectation that those accused of international crimes would be brought to justice.

Mutual support for the law

Mutual Legal aid (MLA), which may best be defined as offering investigative and/or prosecutorial aid at the request of a State for the purpose of a criminal investigation or prosecution in that State, is another kind of (secondary) legal cooperation. MLA may include document serving, cross-border chase and surveillance, witness statement gathering, search and seizure, and more. MLA was first governed with extradition as the means by which a

requested person's property might be confiscated and later used as evidence. It evolved from the "Letters Rogatory," a procedure of requesting aid in gathering evidence or sending delegates to another State to carry out their own investigations, into an autonomous instrument. MLA is governed by bilateral and multilateral agreements, such as the 2000 Convention on Mutual Assistance in Criminal Matters between the Member States of the EU and the 1959 Convention on Mutual Assistance in Criminal Matters of the Council of Europe. The latter tool provided new types of collaboration while streamlining current processes. MLA is referenced internationally in a number of conventions, including the International Convention for the Suppression of the Financing of Terrorism, the 1984 Convention Against Torture, and the 2003 Convention Against Corruption.

MLA is a less invasive or severe type of legal cooperation than extradition from the perspective of the individual defendant and a State's sovereignty. Since extradition processes are more formal, most legal systems provide MLA procedures that are less formal. Although the double criminality criterion is not as universally regarded as a prerequisite for MLA as it is for extradition, states may nevertheless be able to rely on refusal reasons. Additionally, in certain States, MLA may be granted via informal MLA (also known as "informal MLA") without a treaty foundation. The norm of non-inquiry also applies to MLA, which may be problematic given that different criminal justice systems have different investigation and prosecuting authority. The individual defendant cannot claim that the evidence is "illegal" and therefore ineligible to be given to the authorities of the requesting State, for example, if the requested State has used search and seizure powers that would be illegal in the requesting State and the requested evidence has been produced as a result of those powers (although it may still be possible for the accused to claim at trial that the evidence obtained through MLA s.

Criminal cases may be moved for 'prosecutorial economy' grounds, such as when co-accused are present in the asking State or when that State has already begun the accused's prosecution. Humanitarian considerations, i.e., facilitating reintegration into society, are still another significant justification for moving proceedings. It seems reasonable to move a trial to the nation where the defendant was arrested. Relatives may readily visit throughout the trial, which will be performed in his or her mother language. The European Convention on the Transfer of Proceedings in Criminal Matters (or "ECTP"), which was adopted in 1972, is the most well-known multinational agreement in this field. There may be a number of arguments for enforcing a punishment in a jurisdiction other than the one where the penalty was issued. First and foremost, there can be humanitarian considerations since both the transfer of proceedings and the transfer of sentence execution seek to return suspects and convicted individuals to their country of nationality or domicile. Second, consenting to a change in how fines are enforced could make extradition easier.

If the sought offender is returned to complete the term, an otherwise hesitant State may agree to extradite them. Direct enforcement and the conversion of penalties in the administering State where the penalty is to be imposed are the two methods of imposing a penalty that may be distinguished. The execution of fines is covered by both bilateral and multinational agreements. The 1970 European Convention on the International Validity of Criminal Judgments and the 1983 Convention on the Transfer of Sentenced Persons (the "CTSP") are the two most well-known treaties. The ECTP includes reasons for rejection, most of which are related to the intention of transferring proceedings. When the accused is a foreign citizen or does not live in the desired State, transfer may be rejected. The CTSP does not include a list of required refusal reasons, leaving it up to the States to disclose, or not, under what conditions they refuse to participate.

The Framework Decision (the "Decision") creating the EAW became effective on January 1, 2004. The European Arrest Warrant (EAW) has been in effect across the EU and has

essentially supplanted conventional extradition proceedings since the approval of the Italian statute transposing the Decision on 22 April 2005. A crucial tenet of the EU's system of criminal cooperation has been "a high level of confidence," or mutual trust. The Council of the European Union has referred to mutual trust as the "bedrock" of the EAW Decision. It serves as the foundation for mutual recognition, which is regarded as the "cornerstone" of judicial cooperation inside the EU on criminal cases. Mutual trust has led to the elimination of the double criminality rule for a variety of offences under the EAW as well as the removal of the Executive from the decision-making process. Mutual recognition (of court decisions and judgments) was to be the "cornerstone" of judicial cooperation inside the EU, according to the European Council in Tampere, Finland, in October 1999. The idea of mutual trust and recognition is predicated on the notion that all EU Member States uphold the same ideals. Mutual trust has not, however, led to the abolition of reasons for rejection. The draft proposal Framework Decision was "watered down" in negotiations by the Council of Ministers by the addition of concepts and refusal grounds derived from extradition law, despite the European Commission's efforts to introduce a cooperation scheme that fundamentally differed from extradition, with only a small number of refusal grounds and no double criminality requirement for any of the underlying crimes. In fact, the majority of the grounds for refusal specified in the Decision establishing the EAW correspond to reasons for refusal found in extradition treaties and national extradition laws. Sovereignty worries and "distrust" are still valid in that sense.

CONCLUSION

The status of persons in transnational law is the same as that of extra-legal activists. Due to the "good faith" standards between countries and the concept of religion, investigation studies are not good and it is difficult to show the result of lack of evidence regarding this matter in court. Transnational law consists of official police procedures and involvement of state law and does not directly refer to human rights. Indeed, human rights issues have led to some changes in the coordination of cooperation. Sometimes it is possible to transfer the prisoner from one country to another; such an exchange can be requested and accepted for good reasons. However, the state-centred approach that characterizes these cooperative models remains unchanged; The state has the right to decide on the guilty party's decision. But there are signs that the state's stance is changing as national concerns are replaced by the people. From a human rights perspective one can point to the conflict between male leadership in some competence areas. Human rights have also played an important role in limiting state promises to abolish human rights. The European Court of Human Rights (ECHR) argued that the deportation of a German citizen to the United Kingdom on the face of death would set an example. Abuse of Article 3 of the European Convention on Human Rights. The process mentioned at the end involves tackling the cruelty and injustice that could have been abused by Thorin's deportation because it meant Thorin would expose him to American soil to get through the crisis. In this way, Soering's rights under Article 3 of the European Convention on Human Rights, and the UK's commitment to respect them, overtook the UK's commitment to expel Soering from the US.

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CHAPTER 10

THE INTERNATIONAL COURT OF JUSTICE AND HUMAN RIGHTS

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ABSTRACT:
The International Court of Justice (ICJ), created by the Charter of the United Nations, plays an urgent role in the security and enforcement of international human rights. The theory provides a snapshot of the ICJ's involvement in human rights, emphasizing its importance in the global human rights environment. Concerning conflicts between states, the International Court of Justice was gradually called upon to deal with relevant issues such as human rights violations. Interprets and applies laws, arbitration and procedural standards to address critical issues related to human rights abuses, state responsibility, and petitioners. Its laws have contributed greatly to the advancement and advancement of international human rights law. The opinion touches on many important points of the ICJs such as chair, meeting decisions, anger situation and management of decisions. It identifies topics of interest, demonstrates how international courts deal with issues of genocide, torture and isolation, and develops an understanding of state treaties and human rights under international law. In addition, this special study examines the problems and limitations faced by ICJs in addressing human rights violations, issues related to the calculation of state power, enforcement of orders and the Court's reliance on state consent. It also examines the role of the International Court of Justice in the fulfillment of other international and domestic human rights by establishing a framework for the protection of human rights.
KEYWORDS:
Customary International Law, Genocide Convention, Humanitarian Law, International Covenant.

INTRODUCTION

Despite having plenary authority and responsibility for general international law, the International Court of Justice (ICJ or "the Court") has had a significant impact on human rights. The Court has helped shape substantive human rights legislation, as well as the legal system that supports it and the procedures for upholding it. This may surprise some people who are not familiar with the Court's activities. After all, the International Court of Justice (ICJ) is the main court of the United Nations, not a court for the protection of human rights. The parties that appear before it is not persons but rather governments, and its judges do not necessarily need to be recognized experts in the subject of human rights. Its capacity for fact-finding is limited, and its evidentiary procedures are not fully established. Additionally, there are several regional and international organizations with the exclusive purpose of defending human rights, and it may have been assumed that disagreements would be directed to these organizations [1], [2].

Regardless of these qualities or a lack thereof, the Court has had cause to analyze human rights legislation. Despite the fact that individuals lack standing before the Court, states are permitted to and often do so. A lot of advisory opinions have also been written on human rights issues. As a result, the matter regularly comes up before the Court, especially in recent years. If and when such matters do occur, judges' earlier experience as members of regional human rights tribunals, committees of human rights treaty bodies, truth commissions, or Special Rapporteurs of the Commission on Human Rights may be helpful. It is often forgotten how important the Court is to the global defense of human rights. This chapter examines the Court's overall influence while concentrating on four areas. The duty of the Court in upholding human rights is defined in Section 2. This is assessed not just by the

instances in which the Court has determined that a specific article of a human rights treaty has been broken, but also by the Court's interactions with other human rights organizations and the protection it has provided to other enforcers [3], [4].
In Section 3, the basis for human rights treaties is discussed, along with analysis of the Court's case law on how to apply, interpret, and handle reservations to such accords. The focus of Section 4 shifts from the structural to the normative. It focuses on how the Court interprets the Universal Declaration of Human Rights (or "UDHR") and the United Nations Charter's human rights provisions as normative statements. The relative normativity of the various substantive human rights determined by the Court is also examined. The right to self-determination, the right to life, and the prohibition against genocide are the three substantive rights and responsibilities that have been the subject of judicial analysis. Section 5 is concerned with interpretations of these rights and obligations.

DISCUSSION

It is uncommon for the Court to be asked to actively implement human rights legislation due to jurisdictional issues. The Court's contested jurisdiction is optional; in order for the Court to hear a matter, the permission of the states involved is necessary. An optional clause declaration endorsing consent for all time (until revoked) and all matters (unless reserved); being a party to a treaty that contains a compromissory clause that mentions the Court; a special agreement in which the relevant states consent to the hearing of a particular dispute; or forum prorogatum are some examples of how this consent may be expressed. The General Assembly, the Security Council, or other United Nations bodies or specialized organizations must make the request for an advisory opinion in order for the Court to exercise its advisory jurisdiction [5], [6].
As a result, there aren't many times when the Court is asked to determine whether or not a specific human rights treaty article has been violated. This is particularly true in light of the fact that certain human rights treaties with compromissory sections referring the Court call for previous negotiation or arbitration, while others have been the subject of objections, and still others have their own specialized monitoring organization. This is not to imply that the Court has never had the chance to enforce human rights legislation directly by identifying infractions; in three recent instances, two of which were disputed and one of which was advisory, the Court has done precisely that. The African Charter on Human and Peoples' Rights, the Convention on the Rights of the Child, and its Optional Protocol on the Involvement of Children in Conflict were all found to have been broken by Uganda in Armed Activities on the Territory of the Congo, according to the Court. The Court also determined that Uganda had broken the rules of international humanitarian law. In the Genocide Case, the Court determined that Srebrenica was the site of a genocide and that Serbia had failed to uphold its duty to prevent and punish genocide [7], [8].
The decisions are binding on the parties since these were disputed situations. The International Covenant on Economic, Social and Cultural Rights (ICESCR), the CRC, and several international humanitarian law provisions were all broken by Israel, according to the Court's advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Israel was also found to have violated its obligation to respect the right of the Palestinian people to self-determination. Although advisory opinions, as their name implies, are advisory and not technically enforceable, the declarations made therein about issues of international law are nevertheless regarded as significant and have a broad influence, even outside the parameters of the specific instance in which they were issued. Another way the Court has helped to ensure that human rights duties are upheld is through indicating orders for obligatory temporary measures. The Court has suggested temporary remedies to safeguard and maintain such rights while the issue is being fully considered by the Court in circumstances where adherence to human rights commitments have been the

very focus of the dispute before the Court. So, the relevant portion of the dispositif in the order for provisional measures in Armed Activities on the Territory of the Congo is as follows: "[b]oth Parties shall, forthwith, take all measures necessary to ensure full respect for fundamental human rights and for the applicable provisions of humanitarian law within the zone of conflict."

When the precise question of whether or not such requirements were being followed was not in dispute, the Court has sometimes gone farther and suggested interim remedies to preserve human rights. For instance, the Court has suggested temporary measures in some boundary delimitation cases, noting in the Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria that "the events that have given rise to the request, and more specifically the killing of persons, have irreparably damaged the rights that the Parties may have over the Peninsula" and that "persons in the disputed area and, as a result, the rights of the Part" The Court has so acknowledged that "disputes about frontiers are not just about lines on the ground but are about the safety and protection of the peoples who live there."

Exchanges with other enforcers

The coherence of their jurisprudence aids courts and tribunals in upholding international human rights. Thus, it is important to analyze how much the Court has adhered to or deviated from the jurisprudence of other human rights organizations. In the Wall advisory opinion, the Court referenced decisions and concluding remarks of the Human Rights Committee to reach the conclusion that the ICCPR "is applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory." The Committee on Economic, Social, and Cultural Rights' position was used by the Court in reaching a similar finding regarding the ICESCR. The discussion of exceptions and restrictions also included a broad statement from the Human Rights Committee. Judge Al-Khasawneh's statement demonstrates the importance Judge Al-Khasawneh places on the activities of human rights treaty organizations. Judge Al-Khasawneh quoted from the Committee on the Elimination of All Forms of Discrimination Against Women's General Recommendation and said, "To be sure, this clear language emanating from the human rights body charged with monitoring compliance with the Convention is not in and of itself determinative of the matter nor does it relieve judges of the duty of interpreting the provisions of the Convention [9], [10].

Reliance has not been put completely on the work of the treaty body committees, although it does have some weight. The Court found in Armed Activities on the Territory of the Congo that "massive human rights violations and grave breaches of international humanitarian law were committed by the Uganda Peoples' Defence Forces on the territory of the DRC," citing findings of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo (the "DRC"). The Court also relied on non-governmental organizations' factual conclusions, such as those in the reports of Human Rights Watch and Amnesty International. As seen by the Avena case, this does not imply that the Court will always concur with other institutions' opinions. The Inter-American Court of Human Rights had determined that Article 36 of the Vienna Convention on Consular Relations (the "VCCR") was a part of the body of human rights law a few years previous to the court's ruling in that case.

The Court, however, had a different opinion, concluding that "neither the text nor the object and purpose of the Convention, nor any indication in the travaux preparatoires" supported the idea that Article 36 dealt with human rights. The Inter-American Court's decision was not mentioned. It is obvious that the Court has profited from the work of the human rights organizations, and there is no denying that these organizations have benefited from the Court's work. The Court's rulings on topics of general international law, such as customary international law and who bears the expenses in contested cases, have been accepted by human rights organizations. Additionally, they have accepted declarations from the Court on

issues pertaining to human rights law, such as the Genocide Convention's purpose and the validity of certain human rights as erga omnes. The preservation of human rights can only profit from the interlocking system of adjudicating authorities and their uniformity of law.
In its Mazilu opinion, the Court determined that Special Rapporteurs are entitled to the protection provided by Article VI(22) of the Convention on the Privileges and Immunities of the United Nations, which was created to allow the UN to assign missions to people who were not UN employees. The Court believed that Article VI(22) applied to every expert on assignment for the whole of the mission, regardless of whether they were traveling or not. Additionally, the privileges and immunities may be used against the expert's country of origin or place of residency. Ten years later, the Court had another reason to revisit Article VI(22) of the Convention. According to the Cumaraswamy opinion, the Court determined that the Secretary-General of the United Nations has a responsibility to assert the immunity of the organization's expert on mission, inform the relevant government of his findings, and ask it to take appropriate action, including bringing his findings to the government's local courts if necessary. The Court holds that "that finding, and its documentary expression, creates a presumption which can be set aside only for the most compelling reasons and is, therefore, to be given the greatest weight by national courts."
According to the circumstances of the case, the Court also found that the government was required to inform the local courts of the Court's advisory decision in order to uphold its international duties and protect the Special Rapporteur's immunity. The situation is more complicated than just saying that the Court would always stand with those who uphold human rights. For instance, the Court determined in the Arrest Warrant case that a serving foreign affairs minister is immune from the criminal jurisdiction of domestic courts of other governments. The Court also stated that after leaving office, the former minister of foreign affairs may be tried by the domestic courts of foreign states "in respect of acts committed prior or subsequent to his or her period of office, as well as in respect of acts committed during that period of office in a private capacity," which suggests that a former minister of foreign affairs may not be tried in respect of acts committed during office. The majority judge's extrajudicial statement that "the Court's dictum regarding prosecution of former foreign ministers does not affirmatively exclude" an exception for "the most serious international crimes" suggests that not everything is as it appears. There appears to be more to say about the matter. It is clear from this picture that the Court has helped to uphold human rights in a number of different ways. The Court's real contribution, however, lies elsewhere in supporting the human rights treaty framework, clarifying the normative status of particular instruments and specific rights, as well as interpreting the substantive rights and obligations themselves. To stop at enforcement would, therefore, be to leave the picture unfinished [11], [12].
The statements of the Court continue to be valuable in reaffirming the continuous validity of international human rights law during armed conflict, albeit being very much at the level of generality. The Eritrea Ethiopia Claims Commission has provided additional guidance, noting that human rights law in armed conflict has "particular relevance in any situations involving persons who may not be fully protected by international humanitarian law, as with a Party's acts affecting its own nationals" after approvingly citing a passage from the Wall advisory opinion. In the context of the international administration of territory and internal armed conflict, the implementation of human rights legislation is also seen as significant. Thus, the Court has contributed in a positive way to the implementation of human rights accords. It hasn't always clarified the problem, however. For instance, the Court refrained from supporting what has been referred to as this "emerging progressive doctrine" when it came to the issue of whether human rights treaties were immediately obligatory on successor governments in its ruling on preliminary objections in the Genocide case. Instead, the Court

decided to state that regardless of whether Bosnia and Herzegovina became a party to the Genocide Convention retroactively through its Notice of Succession or automatically through its accession to independence, it was a party to the Convention at the time its application was filed.

Human rights treaty interpretation

When a treaty is found to be relevant, it is sometimes required to interpret one of its clauses because it is unclear, not quite clear, or has some ambiguity. A disagreement may occur when interpreting a specific phrase as to whether it should be given the meaning that the parties intended when it was written or interpreted in light of the circumstances of the moment. The standards of treaty interpretation stated in Articles 31-2 of the Vienna Convention on the Law of Treaties (the "VCLT"), whose contents reflect customary international law, must be taken into consideration while interpreting a treaty. The goal of interpretation, which is "to ascertain the common intentions of the parties," must be taken into consideration while interpreting the treaty. Following that, the question is "what elements may properly be taken into account as indirect evidence of the parties' intentions and what weight is to be given to those elements." On the one hand, the inter-temporal rule, which has been used by the Court several times, states that "a judicial fact must be appreciated in the light of the law contemporary with it, and not of the law in force at the time such a dispute in regard to it arises or falls to be settled." On the other hand, the Court has also used the notion of evolutionary treaty interpretation.

As is widely known, the Court determined in its Namibia ruling those key principles inherent in the Covenant of the League of Nations 'were not static, but were by definition evolutionary' and that 'the parties to the Covenant must accordingly be regarded to have embraced them as such'. The Court continued, "Therefore, viewing the institutions of 1919, the Court must take into account the changes which have occurred over the subsequent 50 years, and its interpretation cannot remain unaffected by the later development of the law, through the United Nations Charter and through the use of customary law." Additionally, the interpretation and application of an international instrument must take into account the complete legal system in effect at the time of the interpretation. Similar to this, the Court noted in the Gabckovo-Nagymaros case that the bilateral agreement between the parties in question "is not static, and is open to adapt to emerging norms of international law." The General Act for the Pacific Settlement of International Disputes, a convention "of the most general kind and of continuing duration," was cited by the court in the Aegean Sea Continental Shelf case as saying that "it hardly seems conceivable" those terms like "domestic jurisdiction" and "territorial status" contained in the convention "were intended to have a fixed content regardless of the subsequent evolution of international law."

The Nationality Decrees Issued in Tunis and Morocco decision by the Court's predecessor, the Permanent Court of International Justice, noted that the meaning of specific provisions was "an essentially relative question; it depends upon the development of international relations." Other international organizations have employed the evolutionary method of treaty interpretation. Therefore, it is the interpreter's responsibility to ascertain whether the parties intended for the treaty's provisions to vary over time or stay constant. A leading text on constitutional treaties, such as the United Nations Charter, notes that the parties should be credited with the "general intention to secure the object and purpose of the treaty as effectively as possible in the light of the circumstances as they develop over time," rather than a mechanistic assessment of their specific intentions with regard to a given provision of the treaty. Human rights accords undoubtedly hold true to the same. International human rights courts have applied these declarations of the Court to human rights treaties even though they were not made in reference to them, offering a typical example of generic pronouncements of international law being applied to a specific situation. In fact, it is

assumed that human rights treaties are "living instruments" due to the adoption of evolutionary treaty interpretation in this context.

Human rights treaty reservations

The insertion of a reservation by a state party to a specific treaty clause is another barrier to its execution. With 75 of 185 governments making reservations to the CEDAW alone and 74 of 193 to the CRC, objections to human rights accords have become (too) common. certain states have objected to certain of these reservations; there were 18 in the case of the CEDAW reservations and 13 in the case of the CRC reservations. Clarification is thus needed on the standing of the treaty, the reservation, and the interactions between those that have made reservations and those that have made objections or not. According to the VCLT, general international law holds that a state may make a reservation to a treaty provision as long as reservations in general and that kind of reservation specifically are not prohibited by the treaty and as long as the alleged reservation does not conflict with the treaty's object and purpose. The acceptance or rejection of the reservation by the other contracting states will then determine the relationship between the reserving state and those states. When a treaty is accepted, the provisions against which reservations were made are changed to the amount of the reservations, bringing the treaty into effect as between the reserving and accepting states. The treaty enters into force with the reserved provision "not apply[ing] as between the two states to the extent of the reservation," rather than the objection preventing the treaty's entry into force as between the reserving and objecting states "unless a contrary intention is definitely expressed by the objecting State." The Court's ruling regarding reservations to the Genocide Convention had a significant impact on the VCLT's stance. In the opinion, the Court was questioned on the following:

(i) if other states had protested to the reserving state's reserve, could it still be considered a party to the Genocide Convention;

(ii) if the response was "yes," what impact the reservation had on the relationship between the state making the reservation and the states that (a) accepted and (b) opposed to the reservation; and

(iii) How the legal impact would change depending on whether the opposing state was (a) a treaty signatory but hadn't ratified it, or (b) a non-signatory but had the right to sign it or accede to it.

CONCLUSION

A survey of the law of the Court uncovers that debate relating to human rights have shaped a significant portion of its work and its proclamations on the subject have been critical. Usually not to exaggerate its part. The ICJ isn't and does not imagine to be a human rights court; it is or maybe a court of common universal law, of which human rights law shapes but portion. In any case, seldom is the work of the Court in things of human rights exaggerated. Without a doubt, very the inverse, with a tendency to disregard or make light of its contribution. The Court incorporates an exceptionally genuine part to play within the assurance of human rights. This may not fundamentally be within the range of the coordinate requirement, given the presence of other bodies particularly commanded with the assignment and the jurisdictional imperatives beneath which the Court works. The work of the Court has been priceless in supporting and creating the basic and standardizing system of human rights security and giving clarity to the substantive rights, which may clarify why a few of the awesome human rights contentions have been submitted to the Court for its considered conclusion. In fact, the Court has not continuously secured itself in wonderfulness and the position is as well nuanced to say that the Court has consistently developed human rights law. Be that as it may, the Court can certainly stand nearby other bodies that are entrusted to maintain the security of human rights. For one that's not a human rights court, it has done much to encourage their assurance.

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CHAPTER 11

RELIGION, BELIEF AND INTERNATIONAL HUMAN RIGHTS IN THE TWENTY-FIRST CENTURY

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ABSTRACT:
In the 21st century, the relationship between religion, religion and human rights in the world has become more evident and difficult. The theory presents a high-level diagram of these problems, showing the main patterns and problems. Different and diverse religious beliefs are on the rise, making it difficult for leaders and policy makers to find ways to maintain people's trust or their chosen religion while fostering resistance and cohesion. This difficult situation sparked a debate about the limits of simple religiosity and the potential conflict between religious standards and human rights. This particular approach also defines some aspects of international human rights, such as the integration of human rights recognizing human rights and diversity, and leadership to protect the rights of people regardless of their religion or belief. It examines how these institutions adapt to today's problems of religion and belief, including obscenity, religious reform, and nonviolent issues. Also, the theory addresses the NGO sector, religious education, respect in society, establishing religious dialogue and human rights. It examines how support groups and grassroots development can influence housing choices, tackle oppressive needs, and contribute to the development of people with disabilities.

KEYWORDS:
Freedom of Religion, Minority Rights, Pluralism, Secularism, State Neutrality

INTRODUCTION

Human beings have always attempted to understand and appreciate the metaphysical. Thus, it may not come as a surprise that freedom of religion (and comparable belief) has been said to as having the longest history among all human rights recognized by modern law. However, given that organized religion seems to be on the wane in the West and that there isn't much written on religious human rights, one would be inclined to believe that religion has little influence in modern society. Any such assertion, however, would be untrue. Recent years have seen a strong effect of religious and philosophical issues on global events, giving rise to allegations of a "desecularization of the world." There are at least three ways in which religion has an impact on the world. First, as a result of what some refer to as the emergence of "fundamentalism," religion has become an important factor in international politics. Secondly, liberal democracies are coming under growing pressure to accept religious practices that go well beyond the Judaeo-Christian tradition as a result of significant immigration and demographic shifts. Thirdly, attention has been drawn to the role of religion generally and Islam in particular in international politics as a result of the 9/11 terrorist attacks on the US and associated worries about "Islamist terrorism."

It is extremely likely that the major ideological conflict of the twenty-first century will be between obstinate religions and secular principles, rather than the war between capitalism and communism that dominated the twentieth century. Long-standing conflicts that were thought to be buried in history have reemerged, most notably in the tense relationship between Islam and the West. As a result, there is little agreement on how freedom of religion or belief should be protected in practice, especially when it comes to the challenge of bridging (apparently incompatible) Islamic and secular liberal values. This is true even though few disagree that the expression of one's religious beliefs is anything other than a fundamental human right.

This chapter aims to analyze how international human rights law protects religion (and comparable belief) against such a backdrop. There are four sections in the chapter. I start by critically examining the legal foundations of religious freedom. Second, I list a few rules that international human rights law uses to guide religious and philosophical freedom. Thirdly, I concentrate on the topic of religious attire in an effort to highlight the difficulty in developing international human rights legislation principles that can take into account both religious and secular values in the twenty-first century. Fourthly, I wrap up by making a little remark on the chances for change in regards to the defense of freedom of religion and belief [1], [2].

DISCUSSION

Conflicts over religion or belief have caused more controversy throughout history than most other topics. One critic observed that "homo sapiens appears to be unique in displaying a consistent pattern of persecuting its members for their heterodox opinions or beliefs especially when these are systematically manifested in the form of a religion or philosophy" (p. Today, the right to freedom of speech, conscience, and religion is a cornerstone of international human rights legislation, yet many nations throughout the globe still forbid individuals from exercising their faith. We are now thinking about the origins of religious human rights, which are unquestionably regarded more seriously by certain governments than by others.

The Human Rights Declaration of 1948

Long regarded as a crucial turning point in the defense of global human rights, the Universal Declaration of Human Rights. Perhaps not surprisingly, given that it was drafted primarily in reaction to the horrors committed by the Nazis during World War II, Article 18 of the UDHR guarantees the freedom of religion. Article 18 of the UDHR is comprised of three parts. It affirms two things: first, that "everyone has the right to freedom of thought, conscience, and religion," and second, that this right includes the "freedom to change [one's] religion or belief." Thirdly, it ensures that everyone has the right to "manifest his or her religion or belief in teaching, practice, worship and observance, either alone or in community with others and in public or private." The UDHR exhorts "every individual and every organ of society to promote respect for these rights and freedoms" and claims to be a "common standard of achievement for all people and all nations." The UDHR has had a significant impact on the development of international and national legal concepts, regardless of whether strong Western states had an excessive amount of influence during its preparation, which is a topic of ongoing discussion. For instance, the blueprint for crafting clauses that ensure freedom of religion in a variety of international human rights instruments has often been found in Article 18 of the UDHR. In instance, the International Covenant on Civil and Political Rights, one of the most important human rights treaties in the world, subsequently adopted the language from Article 18 UDHR, "everyone has the right to freedom of thought, conscience, and religion."

Convention on Civil and Political Rights

The ICCPR provides a number of civil and political rights, including Article 18(1), which states that "freedom of thought, conscience, and religion" is guaranteed. The ICCPR's Article 18(1) also guarantees the freedom (both individually and collectively) to express one's "religion or belief in worship, observance, practice, and teaching" and the right "to have or to adopt a religion or belief" of one's choosing. While Article 18(3) of the ICCPR acknowledges that the right to express one's religion or beliefs may be restricted on grounds that are "necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others," Article 18(2) of the ICCPR prohibits coercion with respect to the "freedom to have or to adopt a religion or belief" of one's choice. The state must protect the freedom of parents or other legal guardians "to ensure the religious and moral education of their children in conformity with their own convictions," according to Article 18(4) ICCPR

[3], [4].The ICCPR mandates that states parties make regular reports to the Human Rights Committee (the "HRC") and gives persons the right to protest directly to the HRC about ICCPR violations committed by states parties that have also signed the Optional Protocol. The HRC undoubtedly has a significant role to play in respect to creating international standards in the area of religion and belief since the ICCPR is "the only global human rights treaty dealing with religion that contains measures of implementation." The HRC, for instance, has published General Comment, which provides guidance on the freedom of thought, conscience, and religion. It has also issued specific rulings on cases involving everything from religious objections to military service and moral education to restrictions on religious dress and drug use during worship. The work of the HRC deserves praise in many ways, but it has certain drawbacks in the area of religion and belief (as well as in other areas).
First off, the HRC lacks the standing and authority of an international court or tribunal despite being composed of 18 experts of "high moral character and recognized competence in the field of human rights." States that have ratified the ICCPR are also required to report to the HRC every five years, and since governments are in charge of producing their own reports, there is a greater chance that human rights violations may go unreported. A significant number of states, particularly those with a spotty history of protecting religion or belief, have yet to grant their citizens the right to lodge complaints directly with the HRC, despite the fact that people in states that have ratified the First Optional Protocol retain the ability to do so. Finally, there is a chance that some HRC members may view issues relating to Article 18 ICCPR as being relatively low on their overall list of priorities because the principle of religious freedom (Article 18 ICCPR) is only enshrined in one of the 27 substantive ICCPR Articles that the HRC must take into account when examining state reports [5], [6].
It is crucial to recognize the relevance of the Human Rights Committee's role in establishing standards under Article 18 of the ICCPR notwithstanding the fact that such factors always hinder the HRC's work. For instance, despite some textual ambiguity, the HRC has often shown less deference to governments than the European Court of Human Rights in the area of religion and belief. It has also acknowledged that Article 18 of the ICCPR preserves the right to religious conversion. Thus, there is little question that the HRC is in the forefront of efforts to defend freedom of religion and belief on a global scale. In fact, given the limits of the sole human rights treaty that directly addresses issues linked to religion and belief, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, its function in this field is especially crucial.
On November 25, 1981, the General Assembly voted Resolution 36/55, which became the UN Declaration. It preserves the freedom of speech, conscience, and religion, forbids compulsion, and stipulates that restrictions on the exercise of religion or belief may only be put in place under certain conditions. The UN Declaration of 1981 also recognizes parents' rights to "organize the life within the family in accordance with their religion or belief," forbids intolerance and discrimination on the basis of religion or belief, and mandates states to "take effective measures to prevent and eliminate discrimination on the grounds of religion or belief." It also asserts a child's right to be "protected from any form of discrimination on the basis of religion." In some ways, the UN Declaration's sheer existence is a success for world diplomacy. After all, it should perhaps not be forgotten that concerns were voiced during its drafting that it could be hard to create a text that could transcend Cold War conflicts and take into account disparities between the Islamic and non-Islamic worlds. As a result, on the one hand, the UN Declaration is an admirable accomplishment that unquestionably "marks a turning point in the progressive development of human rights norms." On the other hand, the Declaration may be criticized for a number of reasons, which tempers its significance [7], [8].

As a result of its drafters needing to take into consideration a variety of (sometimes conflicting) ideological and theological viewpoints, it is first and foremost stated in generic and imprecise language. Furthermore, the UN Declaration lacks a professional commission to oversee state adherence to its terms, in contrast to analogous international human rights accords that prohibit discrimination on the basis of race58 and sex. The Declaration was only accepted as a General Assembly Resolution, which only has the status of a suggestion and is thus not immediately regarded as binding law, hence its legal standing is also in doubt.
Finally, the freedom to change one's religion or belief is not expressly guaranteed by the Declaration due to objections from Muslim governments during its preparation, which raises the question of whether it gives enough weight to the idea of individual personal liberty. The UN Declaration, at its best, should be hailed as a beautiful endorsement of the ideal of religious tolerance, but at its worst, it is a shoddy compromise that offers nothing more than nebulous platitudes in the fight against religious prejudice and intolerance. The truth may lie anywhere in the middle. It is debatable how much attention is given to the protection of religion and belief under international human rights law when a vague text like the Declaration is referred to as "the most important international instrument regarding religious rights." Nevertheless, despite the UN Declaration's unmistakably modest tone, one should not discount its influence on the global community, not least because those in the position of Special Rapporteur on Freedom of Religion or Belief use it to assess how well-adhered to their international obligations states are with regard to religion and belief.

Specifically, the Special Rapporteur on the Freedom of Belief

The HRC has tasked an impartial expert, the Special Rapporteur on freedom of religion or belief, with determining whether governmental acts are consistent with the UN Declaration. The Special Rapporteur has the authority to seek information from countries and, upon invitation, may also make fact-finding trips to other nations. The Special Rapporteur may suggest measures to make sure that nations are behaving in accordance with the UN Declaration in addition to pointing out issues relating to subjects of freedom of religion and belief. In carrying out these duties, the Special Rapporteur is obligated to report annually on his or her work to several UN entities, including the Human Rights Council and the General Assembly. While the Special Rapporteurs on Religion and Belief have contributed significantly to creating standards in this area, their total influence is limited by their lack of funding, and the only real consequence they have against recalcitrant nations is bad press [9].
Therefore, the Special Rapporteur's main responsibility is to "investigate, comment on, and advise" on how governments adhere to the UN Declaration rather than acting as "an agent of enforcement." One trait of individuals who have held the position of Special Rapporteur has been the unconventional approach they sometimes took to matters of intense debate. Asma Jahangir, the current Special Rapporteur on blasphemy, has shown less inclined than her predecessor, Abdelfattah Amor, to support restrictions on free expression in this area. In contrast to Mr. Amor, who cited the "issue of [religious] defamation" as one of his "major concerns" and criticized the press for its "grotesque" portrayal of religion, Ms. Jahangir has emphasized that "freedom of expression is as valuable as the right to freedom of religion or belief." The difficulty of drafting international human rights legislation principles that are acceptable to people from a wide variety of religious or spiritual traditions is shown by this difference in tone on a topic as crucial as free expression.
Despite this, certain discrepancies between succeeding Special Rapporteurs may be unavoidable owing to each person's experience, personal objectives, and changes in the dynamic international political landscape. A single office bearer, such as the Special Rapporteur, will unavoidably have a somewhat limited influence given the various difficulties the international community faces in the area of religion or belief. Nevertheless, each Special Rapporteur still serves a valuable purpose, especially given that their findings show the many

different ways that religion and belief are expressed in the twenty-first century in addition to offering a helpful picture of state practice in the area of religious freedom.

Common human rights law concepts regarding religion and belief

As was already said, there are many and various sources of religious freedom. However, it is also true that under international human rights law, there are a number of common principles that apply to religion and belief. First, it is widely acknowledged that there should be a difference made between a religion's or belief's "internal" and "external" practices. The former is total and beyond the purview of the state; it has been referred to as a "inner freedom" and generally involves private religious activities like inner faith, prayer, and personal devotions. Contrarily, the latter, the freedom to show one's religion or belief, is subject to a variety of limitations that are seen to be required to safeguard the interests of other people in society. A persistent reluctance to define the term "religion" has been another feature of international human rights legislation. Since there are so many different global religions, it is difficult to come up with a definition that is both flexible and accurate enough to be used in certain situations. Therefore, unlike certain national courts, international agencies like the HRC, the Special Rapporteur on religion or belief, and the ECHR's institutions of implementation have largely refrained from defining religion. Thirdly, it is widely accepted that the right to freedom of religion or belief "does not apply only to traditional religions."

The HRC has declared that it "views with concern any tendency to discriminate against any religions or beliefs for any reasons, including the fact that they are newly established" in light of the explosion of new religious groups during the last fifty years. The Special Rapporteur on freedom of religion or belief in office has furthermore cautioned that "the legalization of a distinction between different categories of religion is liable to pave the way for discrimination on the basis of religion or belief." Fourthly, a country's commitments to uphold human rights are not automatically violated by the sheer existence of an official state religion. However, where a religion has been given a special or established status, governments are prohibited from directly interfering in the affairs of a state/established church104 while "discrimination against adherents to other religions or nonbelievers" is prohibited.

This principle, which has been accepted in both Europe101 and by the HRC102, has also been confirmed by a previous UN Special Rapporteur on religion or belief. Fifth, rather than protecting beliefs per se from severe vilification, international human rights law protects believers. The Special Rapporteur has criticized nations that have not made it illegal to encourage religious hate. Due to the fact that the ICCPR forbids any "advocacy of States would seem to be under a duty to impose restrictions on words or actions that constitute an incitement to religious hatred because the UN Declaration calls on governments to "adopt criminal law measures against organizations that incite others to practice religious intolerance.

" Finally, parental rights are often explicitly acknowledged in human rights declarations in respect to the role that religion and belief play in children's development. For instance, the ICCPR mandates those states "ensure that the religious and moral education" of children is in accordance with their parents' or guardians' convictions, while the ECHR mandates that the state respect parents' "religious and philosophical convictions" with regard to education and teaching.

State obligations to uphold parental rights, however, are not unqualified. For instance, the European Court ruled that mandatory sex education programs are acceptable as long as they are "conveyed in an objective, critical and pluralistic manner," and the Human Rights Committee determined that regardless of parental objections, religious studies and ethics classes are acceptable as long as they are "given in a neutral and objective way."

CONCLUSION

The truth that age-old animosities between the Islamic and Western universes have reemerged in later a long time essentially increments the challenges confronting those mindful for defining and deciphering standards of universal human rights law within the field of religion and conviction. Undoubtedly, such challenges are made all the graver by the reality that components of what is commonly alluded to as 'fundamentalism' can be found in numerous religions other than Islam, counting Christianity, Hinduism, Judaism and Sikhism. However, regardless such contemplations, worldwide human rights law still has an important role to play within the disposal of devout segregation and intolerance within the twenty-first century. After all, it could be a profitable asset within the practical resolution of universal debate, as well as being of extraordinary typical esteem in highlighting the reality that opportunity of religion or conviction could be an essential right.

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CHAPTER 12

DRIP FEED: THE SLOW RECONSTRUCTION OF SELF-DETERMINATION FOR INDIGENOUS PEOPLES

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ABSTRACT:
The concept of national self-determination has long been at the center of international human rights debates. This special paper examines progress made in the recognition and implementation of this fundamental right recognized by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Dribble Bolster: A Simple Reinvention of Innate Self-Determination Explores the historical context, challenges, and legal and political scenarios that embrace innate self-determination. It introduces key concepts such as the adoption of the United Nations Declaration on the Rights of Indigenous Peoples and subsequent efforts to incorporate its standards into national legislation. The theory also examines the ongoing struggles faced by internal communities, including issues of access, social security and political freedom. Finally, it illustrates the basis of the international effort for the self-determination of ethnic groups as the basis for thinking about their unique characters, relationships and goals in an increasingly interconnected world.

KEYWORDS:
DRIP, Indigenous Peoples, Reconstruction, Self-Determination

INTRODUCTION

The international community, and especially the organization known as the United Nations, has recently shifted its focus to the needs and aspirations of Indigenous peoples after centuries of vacillating between benign indifference and blatant antagonism. The Declaration on the Rights of Indigenous Peoples (also known as "the Declaration" or "DRIP") was adopted by the United Nations General Assembly in late 2007 as a result of three decades of growing interest in Indigenous peoples, their problems, needs, and human rights. Many individuals believe that the Declaration's acceptance represents a fundamental affirmation of Indigenous peoples' identities and protection, and that it is crucial to their existence. The adoption of the Declaration marks the end of a time of dynamic change rather than the focus and development of international law; it marks the shift from the "object" to the "subject" of international law. There are still many unresolved issues surrounding Indigenous peoples' rights, and some of these debates are still developing, particularly those pertaining to the concept of self-determination, the emerging requirement for full prior and informed consent, and the connection between collective and individual rights. The ongoing conflict over states' obligations to fully recognize these human rights for their Indigenous populations often revolves around the difficulties presented by the various interpretations of the right to self-determination that are held by both Indigenous communities and the settler states that have long claimed sovereign authority over them [1], [2].

This chapter will explore some of these concerns by providing an analysis of the recent UN General Assembly Declaration on the Rights of Indigenous Peoples' development and substance. This framework is used because the Declaration is a comprehensive, drawn-out declaration of global agreement that aims to address the majority of the key points of contention regarding the recognition and defense of Indigenous peoples' rights under international law. In this chapter, we'll talk about what it means to recognize the right to self-determination, what it means to challenge state sovereignty (if it does), how it affects land protection, how it affects traditional economies and cultural practices, and how it affects the

emerging requirement of free prior and informed consent when it comes to development on Indigenous lands. Although the Declaration includes these issues, most of the international jurisprudence and discussion has grown out of work done by UN treaty organizations before the Declaration. These treaty organizations are crucial to both Indigenous peoples' rights and the structure of international human rights legislation [3], [4].

DISCUSSION

The reader's patience would be put to the test if we attempted to evaluate all of the international bodies and organizations that deal with issues that are important to indigenous peoples, but this has already been done in many other outstanding evaluations. In conclusion, it is important to note that the majority of international legal issues pertaining to Indigenous peoples have developed through United Nations structures and processes. These structures and processes have specific mechanisms that address the unique concerns of Indigenous peoples, whether as a component of general human rights law or by addressing Indigenous issues specifically. The work of the Special Rapporteur on human rights and indigenous peoples, as well as other related Special Rapporteurs and Independent Experts, contributes to the developing body of legal precedent on Indigenous peoples and their rights, as do the long-standing Working Group on Indigenous Populations, the more recent Permanent Forum on Indigenous Issues, and the work of these individuals. There are also some well-known declarations and conventions that take into account the rights, issues, and suggestions of Indigenous peoples [5], [6].

As was previously said, there are UN human rights treaties and conventions that deal with the rights of all people, and within those documents there are special and general rights that deal with problems that affect Indigenous peoples.

The International Covenant on Civil and Political Rights (ICCPR) and the related Human Rights Committee (HRC) jurisprudence, notably with respect to Articles 1 (right to self-determination) and 27 (minority rights), are the most well-known of these documents.

The HRC has responded to this omission by stating that these articles have a special role to play in the protection of Indigenous peoples, especially in General Comment 23, which clarifies the scope of Article 27 in particular: The enjoyment of the rights to which article 27 relates does not prejudice the sovereignty and territorial integrity of a State party.

In addition, one or more aspects of the rights of people covered by that article, such as the right to enjoy a specific culture, may include a way of life that is strongly linked to a particular region and the use of its resources. Members of minority Indigenous groups may find this to be especially true.

The CERD also applies to everyone, but the CERD Committee has made clear what significance the Convention has for Indigenous people in both its decisions and country comments as well as in General Recommendation 23: The Committee is aware that indigenous peoples have been and continue to be discriminated against, deprived of their human rights and fundamental freedoms, and in particular that they have lost their land and resources in many parts of the world. As a result, it has been and still is under danger to preserve their cultural and historical identity [7], [8].

The ICCPR and the CERD have dominated the development of international standards pertaining to Indigenous rights despite the abundance of other treaties and conventions because these agreements have monitoring bodies with a high level of credibility and widespread participation from the vast majority of member states.

The ILO through Convention 169 on Indigenous and Tribal Peoples, the Organization of American States (with its proposed Declaration on Indigenous Peoples), the Inter-American Human Rights System, the European Union, and the World Bank are the other organizations outside of the UN that deal with the rights of Indigenous peoples.

Laying The Foundation

The Declaration on the Rights of Indigenous Peoples was eventually approved by the United Nations General Assembly on September 13, 2007, after around twenty years of elaboration, with a majority of 143 of the 158 governments voting in favor. The UN Working Group on Indigenous Populations (WGIP), which was founded in 1982 under the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, which in turn was a subordinate organization to the Commission on Human Rights, was the inspiration for the creation of the Declaration. By examining advancements in and international norms impacting Indigenous people and their rights, the WGIP was the first UN committee expressly tasked with handling Indigenous concerns. The ILO Convention 107 on Indigenous and Tribal Populations was the only international law that particularly addressed the rights of Indigenous people at the time.

Despite its historical significance, Indigenous people did not generally perceive it as speaking for their needs or concerns, and it was not widely ratified by ILO member states. Indigenous delegates used the WGIP as a platform after realizing that there were no international or UN principles formed specifically for their needs or with their involvement. They started working on a Declaration that represented their participation and concerns. The "Draft UN Declaration on the Rights of Indigenous Peoples" (the "Draft Declaration") was finalized by the WGIP in 1993 and sent up the UN hierarchy to the Sub-Commission, who accepted it in 1994. At this point, the Working panel on the Draft Declaration ('WGDD'), an intersessional panel established by the Commission on Human Rights to study the draft wording, held the draft declaration hostage for 11 years [9], [10].

The WGDD was made up of representatives from UN member states as opposed to the WGIP and Sub-Commission, which were both made up of independent experts. These representatives balked at the majority of the Draft Declaration's Articles, particularly those that raised the contentious topics of self-determination, land rights, and collective rights. Finally, in 2006, the WGDD ChairpersonRapporteur broke the deadlock by putting out a compromise language that attempted to address some of the States parties' concerns while preserving the integrity of the WGIP text. The statement was expected to be endorsed by the General Assembly during its subsequent session at the end of 2006 after the Human Rights Council, the Commission's successor, did so in June 2006. However, a delay was made in order to further explore areas of special concern in light of last-minute concerns voiced by the African Group of states. Concerns about the impact of the rights to self-determination, to traditional lands, and to natural resources, as well as some constitutional worries about maintaining separate political, legal, and economic institutions while taking part in the mainstream institutions, all contributed to the emergence of these issues.

The states that had previously voted in favor of the document eventually approved some more revisions to the proposed wording. This change opened the door for adoption in the middle of September 2007. Political sensitivity around the idea of state parties' right to self-determination and the apparent threat this right posed to territorial integrity had always been the principal roadblock to the Declaration's acceptance. Although a Declaration itself is not a legally binding document, certain of its provisions may represent customary international practice or an acknowledgment of it, and as a result, may form international law. The DRIP incorporates a number of duties related to human rights that States have previously accepted, despite the fact that it is not a legally binding instrument; as a result, it serves as a broad representation of international law.

According to Article 38 of the DRIP, States must "take the appropriate measures, including legislative measures, to achieve the ends of this Declaration" in collaboration with Indigenous peoples. States that adhere to Article 38 DRIP choose to be governed by their own legal criteria.

The self-determination right's legal implications

The first article of both the ICCPR and the ICESCR, which, together with the UNDP, are acknowledged as the fundamental benchmarks of human rights principles stated in the UN human rights system, articulates the right to self-determination. Indigenous peoples are 'peoples' for the purposes of the right of all peoples to self-determination. The right to self-determination has been given priority on purpose; it is a protection measure intended to safeguard the freedom to seek economic, social, and cultural growth as well as the full and unrestricted involvement in political and civil affairs. The exercise of all human rights requires the right to self-determination. Particularly in the context of Indigenous rights to self-determination, the discussion of the nature of self-determination is sometimes framed as a conflict between conflicting claims to the sovereignty of a region.

The four Anglo-settler countries of Canada, Australia, New Zealand, and the United States (collectively known as "CANZUS") abstained from voting in favor of the Declaration despite the fact that this false dichotomy has long been shown to be untrue. Given the broad array of state commitments to minorities and Indigenous people, the bulk of which fall well short of any sovereign claim, the prospect or fear of challenges to territorial sovereignty may well be a straw man argument. Nevertheless, it is a persistent argument, as will be addressed later. The Declaration and its expressions of self-determination (as well as the other normative standards) are all subject to, and read in compliance with, other UN instruments and articulations of human rights. This may be the short answer to these expressions of doubt and discomfort regarding the rights of Indigenous peoples to self-determination. Thus, self-determination cannot be raised to the point that it conflicts with international "hard" law on state sovereignty and territorial integrity, which are basically the "dominant paradigms" supporting the United Nations system.

Nothing in this Declaration may be interpreted as giving any State, people, group, or individual the right to engage in any activity or to perform any act in violation of the Charter of the United Nations, or as authorizing or encouraging any action that would dismember or impair, completely or in part, the territorial integrity or political unity of sovereign and independent States. Article 46(1) DRIP captures this deference to territorial and sovereign integrity. Article 46 DRIP would seem to assuage those governments who worry about an accelerated process of decolonization for Indigenous people.

In fact, since most other expressions of self-determination do not include such explicit provisos, it is possible to argue that the General Assembly has granted Indigenous people a different (or lesser) quality of self-determination compared to that granted to people generally by including the explicit limitation to the meaning of self-determination in this particular context. The HRC has eliminated the right to self-determination's justiciability, whether it be for Indigenous peoples or other groups, despite it having a prominent place as Article 1 of the ICCPR. It did so on the grounds that while the Optional Protocol (under which governments submit to the ICCPR's complaints system) offers a "recourse procedure for individuals," it does not apply to peoples in the sense of a collective group.

Concurrently, other ICCPR articles' levels of protection have increased, probably in part as a result of Article 1's difficulty being accessed. In particular, the HRC has emphasized the rights that must be granted to Indigenous people in accordance with Article 27 of the ICCPR addressing the rights of minorities to enjoy their own cultures. The historic, cultural, and economic behaviors connected to land and other natural resources are only one example of how this development expresses itself. Article 27 ICCPR is an individual right that attaches to a person who is a member of a minority (or in this case, an Indigenous group), whereas Article 1 ICCPR attaches to peoples. Although some aspects of the rights under Article 27 ICCPR resemble some aspects of the rights under Article 1 ICCPR (particularly on control of activities conducted on traditional lands), the HRC has cautioned against confusing the scope

of these Articles. The right to self-determination is separate from the rights covered by Article 27 according to the Covenant. The Covenant's Part I deals specifically with the former, which is said to be a peoples' right. The Optional Protocol does not recognize self-determination as a right. Article 27 on the other hand, which deals with rights granted to people as a whole, is part of Part III of the Covenant and is cognizable under the Optional Protocol, together with the articles dealing to other personal rights granted to people. Thus, a component of self-determination would include the right to have a say in choices affecting one's traditional lands and resources, which is also a component of the right to the preservation of a minority's culture and of cultural practices related to land. Perhaps the Declaration shows a commitment to treating Indigenous peoples as peoples rather than as a minority, opening up a larger window for the acknowledgment of self-determination without jeopardizing the geographical integrity of States.

Consent or advice?

The definition of the right to free, prior, and informed consent (often known as the "FPIC" criterion), which is now reflected not just in the Declaration but in many other international sources (some of which are discussed below), is an important progression from the right to self-determination (as opposed to minority rights). Regarding the need for states parties to get the approval of Indigenous groups impacted by state action, such as development plans, the extinction of property rights, or the transfer of rights to third parties, the Declaration seems to be rather clear-cut. The ability to negotiate and take part in choices that affect them specifically as Indigenous peoples is one of the special rights that Indigenous peoples have to self-determination. While this is undoubtedly a manifestation of current legal and constitutional ideas like the rule of law and democratic rights, it also expresses intrinsic rights like equality, nondiscrimination, and political involvement. Effective participation, also known as the "internal" aspect of self-determination, is expressly protected by the ICCPR's Articles 1 and 27, the CERD's Article 5(c), the UN Declaration on the Rights of Members Belonging to National or Ethnic, Religious and Linguistic Minorities' Article 2(3), and the Declaration on Friendly Relations.

In addition to being expressly stated in their governing documents, the jurisprudence of human rights organizations includes legal standards addressing Indigenous peoples' involvement and consultation. For instance, the CERD emphasized the need for "informed consent" in the context of participation in public life and choices made for their interests in General Recommendation. The HRC has also said that Indigenous peoples must "effectively participate" in choices that affect the expression of their traditional traditions, especially those pertaining to land and natural resources. The right to minority, linguistic, and cultural expression as stated in Article 27 of the ICCPR gives rise to this necessity of informed consent. The World Bank must adhere by the duty to consider the concerns of Indigenous people impacted by each development project it sponsors as it is presumably the main international development agency.

CONCLUSION

The idea of "DRIP Feed: The Slow Reconstruction of Self-Determination for Indigenous Peoples" emphasizes the continuing and progressive process of recognizing and upholding the rights to self-determination of Indigenous peoples all around the globe. True self-determination is still a work in progress, despite the great progress made with the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Overcoming historical wrongdoings, institutional discrimination, and deeply ingrained colonial legacies that have oppressed Indigenous people for generations is a necessary part of this path. Although UNDRIP offers a strong foundation for change, progress has been gradual and sometimes inconsistent. Indigenous peoples still have a lot of problems, such losing their land, losing their culture, having their economies treated unfairly, and

having restricted access to political power. But there is cause for optimism. In their fight for self-determination, indigenous peoples and their supporters have shown incredible resiliency and tenacity. Positive change has been facilitated through grassroots initiatives, legal triumphs, and heightened awareness across the world. International organizations and governments are progressively realizing the significance of Indigenous rights and taking action to correct historical wrongs.

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CHAPTER 13

AN ANALYSIS OF COUNTER-TERRORISM AND HUMAN RIGHTS

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ABSTRACT:
The relationship between counter-terrorism measures and human rights has become an important and complex issue in today's world. This study examines the interaction between principles against fear-based violence and the protection of fundamental human rights. It explores various dimensions of this relationship; It highlights the problems and challenges governments, international organizations and civil society face in adapting to the negative effects of security concerns and guarantees of personal freedom. This decision begins by considering progress in the fight against terrorism in response to the changing nature of global threats. It delves into the global and local legal systems that drive these efforts, and examines the tensions between the foundations of national security and the protection of respect for freedom. Through research and a comprehensive review of the literature, the impact of terrorism prevention on various aspects of human rights is reviewed, including practical security, access to expression, basic development and appropriate procedures. In addition, in this review, problems such as translation, torture and mysterious closure caused by illegal activities in the name of the fight against terrorism are also examined. It also looks at the progress of research and recommendations for key workers. It also highlights the importance of accountability and monitoring tools to ensure the implementation of counter-terrorism measures to ensure compliance with human rights.

KEYWORDS:
Civil Liberties, Counter-Terrorism Measures, Detention, Extraordinary Rendition, Human Rights Abuses.

INTRODUCTION

Before the events of September 11th, 2001, there had been discussion of the connection between terrorism and human rights. More focus has been placed on the question of how counterterrorism affects human rights after 9/11 as a result of events like the opening of the Guantánamo Bay detention facility and the spread of security and anti-terrorist laws globally. As stated by the UN Office of the High Commissioner for Human Rights: Some States have used torture and other forms of ill-treatment to combat terrorism, often disregarding the legal and practical safeguards available to prevent torture, such as routine and independent monitoring of detention facilities [1], [2].

Other States have violated the international law prohibition against refoulement by sending suspects of terrorist activity back to nations where they face a substantial danger of torture or other severe human rights violations.

In certain locations, the judiciary's independence has been compromised, and the functioning of ordinary court systems has been impacted by the deployment of special tribunals to handle cases involving civilians.

The voices of journalists, minorities, indigenous groups, civil society, and human rights advocates have all been muzzled via the employment of repressive tactics. The security sector now receives funding that would often go to social programs and development aid, which has an impact on many people's economic, social, and cultural rights. Using pertinent international and regional texts on the issue, this chapter first examines the basic need for States to uphold human rights while combating terrorism. After that, it carries on to discuss how to implement human rights compliance while preventing terrorism while taking into consideration all of the rules outlined in that body of legislation [3], [4].

DISCUSSION

As advised by Kofi Annan in his report, Uniting Against Terrorism, the General Assembly approved the United Nations Global Counter-Terrorism Strategy in September 2006. The then-Secretary-General emphasized in this report that effective counterterrorism measures and the preservation of human rights are not mutually exclusive but rather complementing objectives. He said that upholding human rights is necessary for the accomplishment of all parts of a successful counterterrorism strategy and that they play a key role in each of the report's substantial sections. Three ways in which the Global Counter-Terrorism Strategy reflects the Secretary-General's assertion that "Only by honoring and strengthening the human rights of all can the international community succeed in its efforts to fight this scourge"

First, one of the four pillars of the Strategy is the respect for everyone's human rights and the rule of law. Additionally, it is described as "the fundamental cornerstone of the war on terrorism," making it relevant to all four pillars of the Strategy. Finally, the explicit claim that a lack of the rule of law and breaches of human rights constitute circumstances favorable to the growth of terrorism considerably strengthens the Strategy's acknowledgement of the need of respecting human rights in combating terrorism. Although these are very positive steps, the Global Strategy's language is very general and it doesn't address the issue of whether Chapter VII Security Council resolutions, including those on counterterrorism, have the authority to change or in some other way suspend human rights obligations. Therefore, greater thought must be given to the issue of human rights commitments in the context of fighting terrorism. The fight against terrorism and the defense of human rights are not only related and mutually supportive, but respecting human rights also helps catch terrorists in the act [5], [6].

On a national level, evidence obtained by methods that are deemed to violate human rights may not be used in a prosecution. On a global scale, these infractions may affect other States' capacity to rely on such evidence via reciprocal legal aid. Additionally, it should be noted that methods of counterterrorism that violate human rights might cause a State's moral and human rights standards to deteriorate over time, as well as the efficacy of checks and balances on counterterrorism authorities. "He who fights monsters should be careful lest he thereby becomes a monster," stated Frederich Neitzsche in 1886. Along with the duty of States to defend individuals under their control from acts of terrorism, it is important to note the nature of duties under international law. If you stare long into the abyss, the abyss will stare back at you. Human rights are not only necessary for combating terrorism, but States are also required by law to uphold international human rights standards while doing so. This is because both international treaties and customary international law (which apply to all States) impose duties on States with regard to protecting and promoting human rights [7], [8].

This concept is based on the UN Security Council, General Assembly, Commission on Human Rights, and Human Rights Council recommendations, in addition to a State's duties under international law. The General Assembly came to the conclusion that international cooperation to combat terrorism must be conducted in accordance with international law, including the Charter and pertinent international conventions and protocols. This was a clear message of the 2005 World Summit Outcome on the question of respecting human rights while countering terrorism. States must make sure that whatever actions they take to fight terrorism adhere to their commitments under international law, including international humanitarian law, refugee law, and human rights law.

It should be emphasized that the global treaties on counter-terrorism clearly demand conformity with many areas of human rights law before discussing appropriate instruments from the United Nations and others. Article 15 of the International Convention for the Suppression of the Financing of Terrorism, for instance, expressly permits States to refuse extradition or legal assistance if there are reasonable grounds to suspect that the requesting

State intends to prosecute or punish a person on prohibited grounds of discrimination; and Article 17 (requiring the "fair treatment" of any person taken into custody, including enjoyment of all rights and freedoms); both of these provisions are examples of how this is done in the context of international law [9], [10].

The UN General Assembly

Since 1972, the UN General Assembly has passed a number of resolutions on terrorism, originally focusing on actions to end international terrorism and subsequently addressing the issue of terrorism, counterterrorism, and human rights more directly. Resolution 48/122, titled "Terrorism and Human Rights," which was adopted in December 1993, marked the start of the second round of General Assembly resolutions. Both sets of resolutions make a number of claims about how it's important to follow international human rights norms while putting counterterrorism measures into action.

Following the events of September 11, similar views were expressed in resolution 56/88 in a much less forceful manner but still asking that actions be made in accordance with human rights standards. However, it shouldn't be seen as a hint that the General Assembly intended to ignore the detrimental effects of counterterrorism on human rights. Instead, the problem became the focus of yearly resolutions titled "Protection of human rights and fundamental freedoms while countering terrorism" that were limited to that topic alone. The opening sentences of these resolutions state that: States must make sure that whatever action they take to fight terrorism conforms with their responsibilities under international law, including their duties under international human rights, refugee, and humanitarian law. The wording used in these directives from the General Assembly is rather forceful. But it is important to keep in mind that General Assembly resolutions do not have the same authority as Security Council or international treaties. Resolutions and declarations of the General Assembly are purely recommendatory, according to Article 10 of the United Nations Charter.

Both the Human Rights Council, which replaced the Commission as a subsidiary organ of the General Assembly, and the Economic and Social Council's (which only has the authority to make recommendations) subsidiary organ, the Economic and Social Council, are subject to this principle. Thus, rather than being enforceable decisions, treaty provisions, or standards of customary international law (together referred to as "hard law"), the resolutions just examined and those of the Commission to be considered below are guiding principles and non-binding suggestions (what can be dubbed "soft law"). Despite this, these resolutions have a significant impact and may be seen as a symbol of international courtesy due to their consistency and repetition. It is also important to keep in mind that resolutions may serve as evidence of customary international law if they are backed up by state behavior that is compatible with the resolutions' substance and the supporting legal opinion needed to establish customary law [11], [12].

Generally speaking, Security Council resolutions on terrorism have focused on the danger that terrorism poses to global peace and security, reflecting the Council's position as the body of the UN tasked with preserving such conditions. The language and emphasis of Security Council resolutions on terrorism are far more limited than those of the General Assembly and Commission on Human Rights. This function is reflected in the wording and scope of those resolutions. The General Assembly and the Commission, given their plenary roles and mandates, take a much broader approach to the subject than the Security Council, which generally addresses the negative effects of terrorism upon the security of States and the maintenance of peaceful relations. With only two notable exceptions, the primary conclusion that can be drawn from Security Council resolutions regarding counterterrorism policies and the need for them to be in accordance with human rights is that counterterrorism is a goal that should be accomplished in accordance with the United Nations Charter and international law.

This implies that such actions must be in accordance with both international human rights law, which is a specialized branch of international law, and the ideals of the Charter, which among other things aims to uphold and advance human rights. It is noteworthy that UN members have committed to upholding basic freedoms and human rights for all people without regard to race, language, or religion under Article 55(c) and the UN Charter's preamble. The 2003 Declaration of the Security Council meeting with Ministers of Foreign Affairs, made under resolution 1456, is the first more specific exception specified. The topic of human rights compliance is covered in this resolution. According to paragraph 6 of the Declaration, States must make sure that any actions taken to combat terrorism adhere to all of their legal responsibilities under international law. These legal obligations include international human rights law, refugee law, and humanitarian law.

Although the Declaration is convincing in this sense, it is important to emphasize its current position. When framed in obligatory language, Security Council decisions are enforceable against UN members. The Security Council therefore calls for the following steps to be taken. This expression, while influential, is exhortatory and therefore not a binding "decision" within the contemplation of Article 25 of the Charter. It appears before the text of the Declaration adopted under resolution 1456 (including the aforementioned paragraph 6). However, the second resolution under consideration is explicit and binding in its language. After outlining the responsibilities of States to combat various facets of terrorism, Security Council Resolution 1624 states that States shall ensure that any actions taken to carry out paragraphs 1, 2, and 3 of this resolution are in compliance with all applicable provisions of international law, particularly international human rights law, refugee law, and humanitarian law.

The last clause instead represents a clearly binding Security Council resolution and is not preceded by any encouraging phrase. The Counter-Terrorism Committee (CTC), which was established by Security Council resolution 1373 of 2001 and is tasked with receiving reports from UN member states on their compliance with those obligations, should be mentioned while we're still talking about the Security Council. The former United Nations High Commissioner for Human Rights, Mary Robinson, established recommendations for the Counter-Terrorism Committee in her report and follow-up to the World Conference on Human Rights in 2001. In order to provide States clear instructions on how to combat terrorism in a way that respects human rights, the Commissioner requested that the CTC release these recommendations. The Counter-Terrorism Committee was mandated to oversee the implementation of resolution 1373 (2001), but ultimately decided against issuing the Commissioner's Guidelines. This decision was anticipated from the remarks made by the then-Chair of the Counter-Terrorism Committee during his briefing to the Security Council in January 2002. The Counter Terrorism Committee's role does not include monitoring compliance with other international agreements, including human rights legislation. But we'll continue to be conscious of how human rights issues connect with them, and we'll keep ourselves informed as necessary. Of course, other groups are free to examine the reports of the States and discuss their substance in different settings. But since then, there has been a noticeable change in how the Counter-Terrorism Committee views the importance of human rights in its work. The Committee stated in its comprehensive review report dated 16 December 2005 that States must ensure that any action taken to combat terrorism complies with all of their legal obligations under international law and that they should adopt such actions in accordance with international law, particularly human rights law, refugee law, and humanitarian law. It also emphasized the need for the Executive Directorate of the Counter-Terrorism Committee to consider this while conducting its operations.

The CTC took a similar stance when it stated, for instance, that domestic legal frameworks on counter-terrorism should ensure due process of law in the prosecution of terrorists and protect

human rights while countering terrorism as effectively as possible. This statement can be found in the CTC's 2008 survey of the implementation of Security Council resolution 1373. The Committee's inquiries under the reporting dialogue between the CTC and UN member States similarly take this stance. What is New Zealand doing to ensure that any measures taken to implement paragraphs 1, 2, and 3 of resolution 1624 comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law, the Committee asked in response to New Zealand's fourth report to the CTC.

CONCLUSION

The convergence of counterterrorism initiatives and human rights involves cautious navigation since it provides a complicated and difficult terrain. While maintaining national security is of utmost significance, it must be done in a manner that respects and preserves the basic freedoms and rights of every person. The long-term success of counterterrorism programs depends on finding a balance between these two goals, which is not only achievable but also crucial. It is evident that abuses of human rights, such as torture, arbitrary imprisonment, and invasions of privacy, not only jeopardize the values of justice and the rule of law but may also unintentionally encourage radicalization and recruitment to terrorist groups. Consequently, a thorough and rights-based strategy to counterterrorism is not only morally correct but also sensible from a strategic standpoint. Any limits on rights should be both necessary and proportional, and efforts to prevent terrorism should be open, responsible, and subject to severe scrutiny. A comprehensive counterterrorism policy must also address the underlying factors that contribute to terrorism, such as socioeconomic injustices and political grievances.

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