

FROM THEORY TO REALITY: IMPLEMENTING UNITED NATIONS LEGAL FRAMEWORKS FOR PROTECTION OF HUMAN RIGHTS

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ABSTRACT

This article examined the critical endeavour of bridging the theoretical foundations of United Nations (UN) legal frameworks for human rights with tangible and effective implementation. Simply, the article elaborated on the tools or mechanisms of the United Nations for enforcement of its legal frameworks for the protection of human rights. Recognizing that the mere establishment of legal standards is insufficient, the focus was shifted towards the practical realization and enforcement of these frameworks. Through an analytical traverse, the study illuminated key mechanisms and strategies essential for translating theoretical constructs into palpable human rights protection on a global scale. By identifying challenges, proposing solutions, and highlighting successful practices, this work sought to contribute to a discourse that advances the transformative potential of United Nations legal frameworks in safeguarding human rights in our evolving world.

KEYWORDS: ‘Mechanisms’, ‘human rights’, ‘legal framework’.

INTRODUCTION

The protection and promotion of human rights on a global scale is a fundamental aspiration central to the values and objectives of the United Nations. The United Nations (UN) is committed to protecting human rights because it believes that every human being should have full enjoyment of their human rights without suffering violations of those rights. The prevention of human rights violations is therefore a key part of the UN’s efforts to protect and promote human rights for all.¹ The organization has recognized that the protection and promotion of all human rights bind the UN system together around a common approach to crisis, from prevention to recovery and accountability.² The UN Security Council has also recognized that promoting and protecting human rights is one of the best ways for the Security Council to achieve its mandate of maintaining international peace and security.³

To this end and in view of the acknowledged fact that “there is no more vibrant, hope-filled, and complex idea alive today than human rights and dignity for all”, the UN through its legal frameworks and international agreements, has established a comprehensive structure to safeguard the inherent dignity and rights of every individual. However, the efficacy of these legal frameworks lies not only in their conception but also in their successful implementation. Bridging the gap between theoretical foundations and practical realization is crucial to ensure

¹OHCHR, “About prevention and human rights” in *OHCHR and prevention*, < <https://www.ohchr.org/en/>>accessed 10/10/2023.

² OHCHR, “Protecting human rights: the role of the UN Security Council” in *Latest Media Centre Statement*(2021) <<https://www.ohchr.org/en/05/2021>>, accessed 10/10/2023.

³*Ibid.*

that these frameworks are more than mere ideals on paper—they must manifest in tangible, meaningful ways within societies.

This article therefore focuses on the mechanisms of the UN for the implementation of its legal frameworks for the protection of human rights. It thus undertakes a critical examination of the imperative transition from articulation to practical implementation.⁴ It seeks to unravel the intricate journey from theoretical articulation of human rights principles to their concrete application, employing a multidimensional approach that integrates legal, socio-political, and practical perspectives. By delving into the nuances of implementation mechanisms within the UN's legal frameworks, this study aims to elucidate the challenges and opportunities inherent in turning principles into actions.

The evolving dynamics of the global landscape underscore the pressing need for a robust understanding of the ways in which international human rights standards can be effectively translated into real-world impact. In this light, the article navigates through the complexities of extant legal standards, treaties, and conventions, highlighting their potential and limitations in driving substantive change. It highlights the roles played by diverse stakeholders: governments, civil society, international bodies, and individuals, in realizing the transformative potential of these legal frameworks.

By laying the groundwork for a deeper analysis of practical implementation mechanisms, this study sets the stage for a comprehensive study of the challenges that inhibit the full realization of human rights. It attempts to propose proactive strategies and innovative approaches that can bridge the divide between theory and reality, aiming to foster a world where human rights are not just protected on paper but are a lived, tangible reality for every individual.

CONSTRUCT OF TERMS

In order to effectively tackle the principal concerns outlined in this study, it is imperative that we initially establish precise definitions for crucial terms. Specifically, we must provide clear delimitations for 'mechanism', 'human rights', and 'legal framework'. Through this elucidation, the paper will be aptly prepared to examine these concerns in-depth and offer comprehensive insights within the framework of the defined terms.

Mechanism: this is an established process by which something takes place or is brought about.⁵ In context, this denotes the structured systems, processes, and institutions essential for the effective implementation and enforcement of human rights standards. In this respect, it refers to a systematic and organized structure established to ensure the adherence to human rights norms and principles. These mechanisms can take various forms, including international, regional, or domestic bodies, committees, courts, or commissions. Their primary objective is to supervise, monitor, investigate, and promote the respect and protection of human rights within a specific jurisdiction or globally. The UN legal frameworks for the protection of human rights are critical standards designed to safeguard the fundamental rights and freedoms of individuals globally.

⁴ Noah Levin, "The Categorical Imperative (Immanuel Kant)", *LibreTexts: Humanities* (NGE Far Press), available at https://human.libretexts.org/Bookshelves/Philosophy/Introduction_to_Ethics_%28_Levin_et_al_, accessed 10/10/2023.

⁵ J Turnbull, D Lea, D Parkinson, P Philips, B Francis, S Webb, V Bull, & M Ashby, *et al*; *Oxford Advanced Learner's Dictionary of Current English*, (London: Oxford University Press, 2010), p. 922; Farlex, "The Free Dictionary", available at <https://www.thefreedictionary.com/home> [accessed 9/10/2023]

Various mechanisms exist within the UN legal standards for protecting these rights, such as treaty monitoring bodies, special procedures, Universal Periodic Review [UPR], Advisory Services and Technical Assistance.

Human rights: these are rights that are fundamental entitlements and freedoms inherent in any human being. The idea of human rights and dignity for all is described as the most vibrant, hope-filled, and complex idea alive in the world today.⁶ The notion that “all human beings are born free and equal in rights and dignity”⁷ was long and difficult to crystalize as human rights. Thus clothed, it has basic features which can be summarized in six indices, as demonstrated below.

First, every individual possesses inherent rights solely by virtue of being human, granting them the entitlement to live a life characterized by dignity. Human rights are designed to uphold circumstances that promote the utmost humanity and facilitate harmonious coexistence, fostering mutual respect among people. Second, human rights are of universal application, extending equitably to all individuals, irrespective of their identities or geographic locations. Third, adhering to the principle that “all human beings are born free and equal in rights and dignity,” human rights regard all individuals as equal, irrespective of individual differences in appearance, status, and social ranking. It thus emphasizes not identical treatment or perception of all individuals, but rather demands equal treatment and opportunity for everyone. Human rights acknowledge the diversity present in human cultures and recognize the variations among individuals, encompassing factors such as race, colour, gender, language, religion, political or ideological beliefs, national or social background, property, birth, or other distinctions.⁸ Fourth, human rights are primarily imbued in the individual, directly concerning the dynamics between governments and people. Hence, every person possesses a legitimate entitlement to their society and government, based on right rather than privilege. Consequently, societies and governments bear a duty to fulfil and meet these rights-based claims to the highest degree feasible. Fifth, human rights encompass the fundamental principles of humanity, to the extent therefore that any infringement upon the enjoyment or practice of a human right is justifiable only when it is legally sanctioned.⁹ Sixth, the acknowledgment and safeguarding of human rights transcend national borders in international law. It places the onus on every nation to uphold and advocate for these rights.¹⁰

Legal framework: is the legal structure of a particular system¹¹; or “a fundamental structure, as for a written work”,¹² and contextually refers to the established structure of laws, regulations, treaties, conventions, and judicial systems that define, protect, and govern human rights within a particular jurisdiction or globally. It provides the foundational guidelines, principles, and mechanisms necessary to ensure the recognition, respect, and enforcement of human rights within a legal context. Legal framework in the context of human rights delineates the rights and responsibilities of individuals, governments, organizations, and other entities concerning human rights, as well as the avenues available for seeking redress and accountability for violations.

⁶JM Mann, S Gruskin, MA Grodin, and GJ Annas, *et al*, *Health and Human Rights*, (New York & London: Routledge, 1999), p. 21.

⁷Article 1, *Universal Declaration of Human Rights* (1948).

⁸JM Mann, *et al*, *op cit.*, p. 22.

⁹*Ibid.*

¹⁰*Ibid.*

¹¹J Turnbull, *et al*, *Oxford Advanced Learner's Dictionary of Current English*, *op cit.*, p. 594.

¹²Farlex, “The Free Dictionary”, available at <https://www.thefreedictionary.com/home> [accessed 9/10/2023]

MECHANISMS OF THE UNITED NATIONS FOR PROTECTION OF HUMAN RIGHTS

The UN bears a fundamental responsibility to safeguard, oversee, and promote human rights at the global level, leading to its involvement in a range of activities. To accomplish these objectives, the UN has through various legal frameworks, sought to ensure that member states adhere to its human rights standards. However, conformance with the dictates of the UN legal frameworks by member states and non-state actors can be accomplished through diverse approaches.¹³ For instance, monitoring and reporting on human rights situations serve as valuable tools in ensuring compliance. Additionally, international treaty bodies¹⁴ are charged with the duty of monitoring and reporting on human rights conditions within member nations.

Human rights monitoring, known as the practice of collecting information about the human rights situation in a specific country or region over a period of time using accessible methods, aims to advocate for addressing human rights violations. It entails documenting instances of human rights abuses and practices, ensuring that the information is organized, validated, and utilized effectively. Further, parties to international human rights treaties are required to submit regular reports detailing compliance. In addition, the UN reviews human rights compliance by all countries through the UPR process. Finally, a human rights body may independently undertake a mission to monitor human rights conditions in a particular country, or for a specific group of people.¹⁵

In general, the system established for monitoring and implementing the global human rights standards or legal frameworks set by the United Nations can be broadly categorized into two types: (i) Conventional Mechanisms and (ii) Non-conventional Mechanisms. It should be acknowledged that while these mechanisms may have distinct characteristics, their shared objective is the protection of human rights under the guidance of the UN. As a coordinating entity, the Office of the High Commissioner for Human Rights (OHCHR) provides administrative assistance and valuable expertise to the various human rights monitoring mechanisms within the UN human rights system.

1. Conventional Mechanisms

Conventional mechanisms consist of two categories, as follows: (a) the United Nations Charter-based mechanisms; and (b) the United Nations Treaty-based mechanisms.

(a) Charter-based Mechanisms: Within the implementation mechanism established under the UN Charter, it is suggested that Charter-based human rights bodies refer to those that are established in accordance with the provisions of the UN Charter. There are ten human rights Treaty Bodies, made up of committees of independent experts, which monitor implementation of the core international human rights treaties. These mechanisms possess the authority to examine

¹³Guide to International Human Rights Mechanisms, *Human Rights Monitoring Mechanisms*, <<http://www.theadvocatesforhumanrights.org>> [accessed 8/6/2023]

¹⁴For further reading on what human rights monitoring means, see M Guzman and B Verstappen, *et al*, 'Human Rights Monitoring and Documentation Series', "What is Monitoring" (1), (Switzerland. HURIDOCs. 2003) <<https://www.huridocs.org/wp-content/uploads/2010/08/whatismonitoring-eng.pdf>> [accessed 12/6/2023]

¹⁵Guide to International Human Rights Mechanisms, *Human Rights Monitoring Mechanism, op cit*.

and evaluate the human rights practices of all UN member states. The UN Charter-based monitoring bodies encompass the former Commission on Human Rights,¹⁶ now known as the Human Rights Council, which utilizes mechanisms such as the Permanent Procedure, UPR, and Special Procedures, also known as Independent Investigations.¹⁷

The Human Rights Council¹⁸ serves as a platform with the authority to prevent abuses, address inequality and discrimination, safeguard the rights of the most vulnerable, and expose those responsible for violations. It operates separately from the OHCHR. The Council utilizes mechanisms such as the UPR and other Special Procedures, derived from its mandate under the UN Charter.

Universal Periodic Review [UPR]: this mechanism is a systematic evaluation of the human rights records of all 192 Member States of the UN. The Council administers the UPR process, which involves conducting a review of the human rights status of each member state every four years.¹⁹

Permanent Procedures: this mechanism refers to a process established by the Council for the focused examination of specific aspects of human rights issues. There are two types of Permanent Procedures: (i) the 1503 Procedure and (ii) the 1235 Procedure.

The 1503 Procedure, also known as the Complaints Procedure, is a mechanism established by the UN Commission on Human Rights (UNCHR) and later inherited by the UN Human Rights Council (UNHRC)²⁰ to address communications about alleged human rights violations. It derives its name from ECOSOC Resolution 1503,²¹ which introduced and defined this particular mechanism. It allows individuals and organizations to submit complaints about human rights abuses directly to the UN, specifically focusing on those that manifest consistent patterns of gross and reliably attested violations²² committed by a particular state. It is therefore a confidential reporting procedure which is activated when the Council receives a communication regarding a consistent pattern of gross human rights abuses. Such patterns may include acts such as genocide, apartheid, racial or ethnic discrimination, torture, forced mass migrations, and mass imprisonment without trial.

The 1503 Procedure mechanism may be summarized as follows:

- (i) **Confidentiality:** The 1503 Procedure operates under strict confidentiality to protect

¹⁶Now replaced by the Human Rights Council.

¹⁷OHCHR, “Instruments and Mechanisms, UN Human Rights Office, <<https://www.ohchr.org/en/>> accessed 10/10/2023.

¹⁸An inter-governmental body, consisting of 47 elected UN Member-States who serve for an initial period of 3 years for a maximum of two consecutive terms, it first met in plenary on 19/6/2006. See <<https://www.ohchr.org/en/hr-bodies/hrc/about-council>> [accessed, 12/6/2023]

¹⁹Guide to International Human Rights Mechanisms, *Human Rights Monitoring Mechanisms*, <<http://www.theadvocatesforhumanrights.org>> [accessed 12/6/2023]

²⁰OHCHR, “Complaints procedures under the human rights treaties, <<https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures/complaints-procedures-under-human-rights-treaties>> [accessed 12/6/2023].

²¹Adopted as Resolution 1503 on 27 May 1970.

²²FIDH, “The Complaints Procedure of the Human Rights Council”, <<https://corporateaccountability.fidh.org/the-guide/intergovernmental-mechanisms/the-united-nations-system-for-the-promotion-and-protection-of-human-rights/the-charter-based-mechanisms/the-complaint-procedure-of-the-human-rights-council-1503-procedure/>> [accessed 12/6/2023].

the identity of the sources of information and the individuals or organizations submitting complaints.

- (ii) **Communications Received:** Communications, also known as complaints, are received by the UNHRC's Secretariat concerning alleged human rights violations in a particular country.
- (iii) **Working Group on Communications:** A working group composed of five UNHRC member states is appointed to review the communications. This group is known as the Working Group on Communications under the 1503 Procedure.
- (iv) **Examination of Communications:** The Working Group reviews and examines the communications to ascertain whether they meet the admissibility criteria denoted in the 1503 Procedure.
- (v) **Admissibility Criteria:** The admissibility criteria include ensuring that the matter falls within the scope of the Universal Declaration of Human Rights and is not politically motivated or an abuse of the right to submit communications.
- (vi) **Consideration of Merits:** If a communication is deemed admissible, the Working Group considers its merits and may request additional information from the concerned parties, including the government of the country in question.
- (v) **Recommendations:** Based on its assessment of the merits, the Working Group may make recommendations to the UNHRC, including steps the government should take to address the human rights violations.
- (vi) **Follow-up by UNHRC:** The UNHRC considers the Working Group's recommendations and decides on appropriate actions, which may include continued monitoring, further engagement with the concerned country, or other measures aimed at addressing the human rights issues raised in the communication.

The 1503 Procedure therefore serves as a means for individuals and organizations to bring alleged human rights violations to the attention of the UNHRC, facilitating a confidential and structured process for addressing these concerns. When the 1503 Procedure is invoked, complaints can reach the highest level of the UN human rights machinery: the **Human Rights Council**. This may result in significant pressure being exerted on the state reported against to change laws, policies, or practices that infringe upon guaranteed human rights.²³

While the 1503 procedure incorporates individual petitions and comprehensive submissions from Non-Governmental Organizations (NGOs), its scope does not encompass individual cases of violation. Rather, it aims to identify instances of widespread and severe human rights violations that impact a significant number of individuals. It is worth mentioning that even in cases where a report is publicly available, the consent of the concerned state is not required for the Council to initiate an investigation. The Council holds the authority to determine the subsequent steps to be taken based on the report's findings.

Contrast the 1235 Procedure²⁴. This procedure refers to a process within the UN Human Rights Council (UNHRC) aimed at addressing and responding to human rights violations and concerns in specific countries. It strives to address and prevent human rights abuses by emphasizing

²³ OHCHR, "Complaints Procedure-Claiming Human Rights", <[https://bing.com/search?q=1503+ procedure+UN+ human+rights+council](https://bing.com/search?q=1503+procedure+UN+human+rights+council)> [accessed 12/6/2023].

²⁴ This procedure was established by Resolution 1998/7 of the UN Commission on Human Rights, which preceded the UNHRC.

cooperation and dialogue. It comes into play when the 1503 Procedure proves ineffective in addressing the issue at hand. If such a situation arises, the Council can activate the 1235 Procedure, which involves conducting an annual public debate focused on the gross human rights violations in question. The primary objective is to draw attention to the political leaders of the concerned state, both domestically and internationally, in order to highlight the gravity of the situation.

Details of the 1235 Procedure may be summarized as follows:

- a. **Early Warning and Urgent Action:** The 1235 Procedure allows for early warning about situations that could potentially escalate into human rights violations. The objective is to take preventive or urgent action to avert potential crises.
- b. **Interactive Dialogue:** The UNHRC engages in an interactive dialogue with the concerned country to address the human rights situation. This allows for a constructive discussion where the country's representatives can present their perspectives and actions taken to address the human rights concerns.
- c. **Assistance and Cooperation:** The UNHRC emphasizes providing technical assistance and cooperation to the concerned country, aiming to strengthen its capacity to address human rights issues effectively.
- d. **Follow-up and Reporting:** The UNHRC continues to monitor the human rights situation in the concerned country through follow-up reports and discussions, ensuring that progress is made in addressing the identified human rights concerns.

The 1235 Procedure underscores the importance of constructive dialogue, cooperation, and assistance in promoting and protecting human rights at the international level. It serves as a mechanism to encourage states to fulfill their human rights obligations and work towards a more just and equal world.

Special Procedures²⁵ are commonly used as the collective term for mechanisms initially established by the Human Rights Council. These mechanisms are designed to specifically address either particular country situations or thematic issues across different regions worldwide.²⁶ It is important to highlight that a Special Procedure involves a fact-finding mission or inquiry carried out by various individuals or groups such as Special Rapporteurs, Representatives, Independent Experts, or Working Groups. These experts delve into specific human rights situations, actively seeking out violations in order to gather pertinent information for either; a 1503, or 1235 procedure.

These situations can pertain to specific countries or territories, referred to as country mandates, or encompass broader global issues involving significant human rights violations, known as thematic mandates. The Special Procedure subsequently submits reports to the Human Rights Council, containing their findings and recommendations based on their investigations. Their primary role is to monitor, examine, advise, and publicly report on thematic issues or situations of human rights in specific countries.

²⁵Special Procedure mandate-holders serve for 3-year terms, which can be renewed for an additional three years. As of October 2022, there are a total of 45 thematic mandates which focus on specific human rights themes (e.g., freedom of expression, torture prevention, right to education); and 14 country mandates that address human rights situations in particular countries. See OHCHR, <<https://www.ohchr.org/en/special-procedures-human-rights-council>> [accessed 13/6/2023].

²⁶Human Rights Bodies <<http://www.ohchr.org/en/hrbodies/>> [accessed 12/6/2023]

The Special Procedures undertake several crucial functions such as (a) country visits that require them to visit specific countries to assess the human rights situation on the ground; (b) individual cases, which require that they address reported violations and broader concerns by communicating with states and other relevant actors; (c) standards development, under which they contribute to the development of international human rights standards; and (d) advocacy and awareness which enable them to engage in advocacy efforts, raise public awareness, and provide advice for technical cooperation.²⁷ Special procedure mandate-holders play a vital role in advancing human rights. They facilitate legislative reform, improve access to mechanisms for redress, mainstream human rights within government and judicial processes, set human rights standards, raise awareness about human rights issues, facilitate dialogue and coalitions, and work toward the prevention and cessation of violations.²⁸

Many contemporary issues intersect with various aspects of human rights. Mandate-holders bring their expertise to topics such as climate change, new technologies, migration, and responses to emergent health situations of international concern, such as COVID-19.²⁹ Where an individual is a victim or has knowledge of human rights violations or policies that do not respect human rights in their country, they can use the special procedures communications process to report this information. Effective fulfillment of their mandates requires individuals and groups to engage with special procedures without fear of intimidation or reprisal.

(b) Treaty-based Mechanisms: Though the UN Charter is a treaty, however, treaty-based mechanisms and Charter-based mechanisms are distinct due to the nature of international treaties in legal frameworks. International treaties are legally binding agreements between states that are governed by international law.³⁰ Generally, international law holds precedence over a state's domestic law. However, the exact relationship between international law and domestic law can vary depending on the legal system of each country. Some countries have incorporated international law into their domestic legal systems, granting it direct effect and supremacy over conflicting domestic laws. In other countries, international law may require domestic legislation for implementation, or may only be considered binding upon ratification or accession to a treaty. International treaties are considered to be an important part of the UN's efforts to promote and protect human rights around the world. When states become signatories to a treaty, they implicitly commit to incorporating the provisions of that treaty into their domestic legal systems. The specific process of incorporation can differ between countries, as it depends on their constitutional constructs and legal traditions. Some states automatically incorporate treaty provisions upon ratification, while others may require domestic legislation for implementation.³¹

Unlike UN Charter-based mechanisms which may lack legal binding force or require authorization for implementation, treaties are supported by the principles governing international law and thus possess legally binding status. A treaty is an international legal document. When states sign a treaty, it indicates their intention to be bound by the treaty's provisions. However, signing a treaty does not legally bind the state to the treaty's provisions. Ratification signifies the

²⁷OHCHR, available at <<https://www.ohchr.org/en/special-procedures-human-rights-council>> [accessed 13/6/2023].

²⁸*Ibid.*

²⁹*Ibid.*

³⁰United Nations, "The Foundation of International Human Rights Law", available at <<https://www.un.org/en>>, [accessed 11/10/2023].

³¹*Ibid*

state's formal consent to be legally bound by the treaty.³² Accession, which has the same legal effect as ratification, is the process by which a state becomes a party to a treaty after its ratification by other states.³³ Once a treaty is ratified or acceded to, it becomes legally binding on the states that are parties to it. It is important to note that the implementation and enforcement of international law, including treaty obligations, can vary in practice. Compliance with treaty obligations can depend on factors such as political will, domestic legal frameworks, and the availability of enforcement mechanisms at the international and domestic levels.³⁴

There is a lack of clarity regarding the exact number of treaty-based monitoring bodies operating within the United Nations framework.³⁵ However, it is widely acknowledged that the UN currently has eight human rights treaties.³⁶ Each of these human rights treaties has its own dedicated monitoring body. Due to the limitations imposed by the nature of this study, the detailed examination of each monitoring body is not possible, but limited consideration is provided.

{i} The Human Rights Committee, (HRC)

The implementation of the International Covenant on Civil and Political Rights, established in 1966, is overseen by the Human Rights Committee³⁷ (HRC). The HRC comprises eighteen (18) members who serve as independent experts in the field of human rights, acting in their individual capacities.³⁸ States parties to the Covenant have the obligation to submit regular reports to the Committee, detailing the implementation of the rights outlined in the Covenant. Initially, states must submit a report one year after acceding to the Covenant, followed by periodic reports as requested by the Committee, usually every four years. The Committee carefully examines each report and conveys its concerns and recommendations to the state party through concluding observations. To carry out its monitoring activities, the HRC employs three main approaches: the

³²*Ibid*

³³United Nations, "United Nations Treaty Collection", available at <<https://www.un.org/>>, [accessed 11/10/2023].

³⁴DR Rothwell, S Kaye, A Akhtarkhavari, and R Davies, *et al*, "Enforcement of International Law", DR Rothwell and Imogen Saunders, eds., *International Law: Cases and Materials with Australian Perspectives*, (London: Cambridge University Press, 2010), pp. 604-658, available at DOI: <https://doi.org/10.1017/CB09780511997341.013>>, [accessed 12/10/2023].

³⁵For instance, it is said to be six in United Nations "Human Rights Monitoring Mechanisms", available at <<http://www.un.org/rights/HRToday/hrmm.ht>>; seven in The United Nations "Human Rights System", available at <http://www.hrea.org/index.php?base_id=16>; ten that are claimed to "monitor implementation of the core international human rights treaties", in OHCHR, "Human Rights Bodies", available at <<http://www.ohchr.org/en/hrbodies/>>; about eight are listed in United Nations, "Human Rights System: Treaties, Mechanisms and Documents", available at <<http://www.escr-net.org/docs/i/425203>>; [accessed 8/6/2023]; and six as listed in *Human Rights in the Administration of Justice*, op cit, pp. 38, 42, 47, 53, 56, & 60-61.

³⁶These are as follows: International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Convention on Rights of Persons with Disabilities, (CRPD).

³⁷ The Human Rights Committee was established in 1976 and is authorized by the First Optional Protocol, which came into effect alongside the Covenant. This protocol empowers the HRC to consider complaints or allegations from individuals regarding violations of their civil and political rights. Additionally, the HRC addresses matters related to the Second Optional Protocol on the Abolition of the Death Penalty.

³⁸Art. 28 of the ICCPR.

submission of periodic reports,³⁹ also known as the reporting procedure, inter-State communications,⁴⁰ and individual communications.⁴¹

{ii} The United Nations Economic and Social Council, (CESCR)

The implementation of the International Covenant on Economic, Social and Cultural Rights, adopted in 1966, is the responsibility of the United Nations Economic and Social Council.⁴² In 1985, the Council created the Committee on Economic, Social and Cultural Rights (CESCR) as an independent body of experts, running parallel to the Human Rights Committee responsible for monitoring the ICCPR.⁴³ The CESCR consists of 18 independent experts who serve in their individual capacities to assess the implementation of the International Covenant on Economic, Social and Cultural Rights by its states parties.⁴⁴ The Committee has introduced a practice of issuing General Comments, aiming to support states parties in meeting their reporting obligations.⁴⁵ Unlike other committees where members are elected by states parties and report to the General Assembly, the members of the Committee are elected by the Economic and Social Council (ECOSOC) and report to it. The implementation mechanism primarily relies on a reporting system as its core component.⁴⁶

{iii} Committee on the Rights of the Child, (CRC)

The Convention on the Rights of the Child, along with its two Optional Protocols, has a dedicated monitoring body known as the Committee on the Rights of the Child (CRC). Since 1991, the CRC has been responsible for overseeing the implementation of the Convention by its state parties. Additionally, it monitors the implementation of the two Optional Protocols relating to the involvement of children in armed conflict and the sale of children, child prostitution, and child pornography. The UN General Assembly approved a third Optional Protocol,⁴⁷ introducing a communications procedure that allows individual children to lodge complaints regarding specific violations of their rights under the Convention and its first two optional protocols. The Committee primarily utilizes the reporting procedure as the main mechanism for implementing the Convention. It also provides guidelines for the submission of reports by states parties concerning their progress in upholding the rights outlined in the Convention.

{iv} Committee on the Elimination of Racial Discrimination, (CERD)

The International Convention on the Elimination of All Forms of Racial Discrimination, adopted in 1965, has established the Committee on the Elimination of Racial Discrimination (CERD) as its monitoring body. The CERD is composed of eighteen (18) independent experts who serve in their individual capacities. States parties to the Convention are obligated to submit regular reports to the Committee, outlining the implementation of the rights enshrined in the Convention.

³⁹Art. 40, *ibid.*

⁴⁰Art. 41, *ibid.*

⁴¹Art. 1 of the Optional Protocol.

⁴²Art. 16(2)(a) of the ICESCR.

⁴³OHCHR and IBA, “Human Rights in the Administration of Justice”, *op cit*, p. 42.

⁴⁴The Committee was established under [ECOSOC Resolution 1985/17](#) of 28 May 1985 to carry out the monitoring functions assigned to the [United Nations Economic and Social Council \(ECOSOC\)](#) in Part IV of the Covenant, <<http://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>> [accessed 10/6/2023]

⁴⁵UN doc. E/2000/22(E/C.12/1999/11), p. 22, para.49; cited in *Human Rights in the Administration of Justice*, *ibid.*

⁴⁶Art.16 of the ICESCR.

⁴⁷Approved on 19/12/2011 but entered into force in April 2014; see <<http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>> [accessed 12/6/2023]

The initial report is due one year after acceding to the Convention, followed by reports every two years. The Committee thoroughly examines each report and communicates its concerns and recommendations to the respective state party in the form of concluding observations.⁴⁸ In addition to the reporting procedure, the Committee utilizes a comprehensive implementation mechanism, which includes an early-warning procedure, examination of inter-State communications, and consideration of complaints from individuals. Furthermore, the Committee publishes general recommendations, also known as general comments, providing its interpretation of the content of human rights provisions related to thematic issues.⁴⁹ The Committee also organizes thematic discussions as part of its work.⁵⁰

{v} The Committee Against Torture, (CAT)

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1984, established the Committee Against Torture (CAT) as the implementing body for its provisions.⁵¹ The CAT is composed of ten (10) independent experts⁵² and was created in 1987. It carries out its responsibilities through a four-pronged mechanism, which includes the reporting procedure; invitation to a state party to cooperate in an examination of information concerning systematic torture and providing observations on the matter;⁵³ inter-State communications; and individual complaints.

{vi} Committee on the Elimination of Discrimination against Women, (CEDAW)

The Convention on the Elimination of All Forms of Discrimination against Women, adopted in 1979, along with its Protocol from 1999, is implemented through the Committee on the Elimination of Discrimination against Women (CEDAW). CEDAW is composed of 23 experts with a focus on women's issues.⁵⁴ The committee primarily carries out its monitoring responsibilities through the reporting procedure, in which state parties submit reports to the committee at regular intervals, detailing the progress and challenges encountered in fulfilling their treaty obligations under the Convention.⁵⁵

2. NON-CONVENTIONAL MECHANISMS

Apart from the treaty-based mechanisms, the UN has also established special procedures to

⁴⁸United Nations, Human Rights, 'Office of the High Commissioner', "Committee on Elimination of Racial Discrimination", available at <<http://www2.ohchr.org/english/bodies/cerd/>> [accessed 12/6/2023]

⁴⁹*Ibid.*

⁵⁰Since the Convention entered into force in 1969, the Committee has been diligently fulfilling its mandate, making it the oldest United Nations treaty body.

⁵¹United Nations, Human Rights, 'Office of the High Commissioner', "Committee Against Torture", <<http://www.ohchr.org/en/hrbodies/cat/pages/catindex.aspx>> [accessed 12/6/2023]

⁵²Art. 17(1) of CATOCIDTP.

⁵³Under article 20, *ibid*, "if the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practiced in the territory of a State party", it "shall invite that State party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned."

⁵⁴United Nations, 'Human Rights, Office of the High Commissioner', "Committee on Elimination of Discrimination against Women", <<http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>> [accessed 11/6/2023]

⁵⁵Additionally, with the adoption of the Optional Protocol to the Convention, CEDAW is now empowered to receive and consider petitions from individual women or groups of women who have exhausted all available domestic remedies. This expansion of CEDAW's mandate allows for the examination of specific complaints regarding violations of women's rights. Overall, CEDAW plays a crucial role in monitoring and promoting the elimination of discrimination against women, utilizing the reporting procedure and, with the Optional Protocol, providing a platform for addressing individual grievances.

address severe human rights violations. These special procedures consist of independent human rights experts who are entrusted with mandates to report on and provide advice regarding human rights issues from both thematic and country-specific perspectives. The system of Special Procedures⁵⁶ is a vital component of the UN human rights framework and encompasses all aspects of human rights, including civil, cultural, economic, political, and social rights. Currently, there are a total of forty-four (44) thematic mandates and fourteen (14) country mandates within the Special Procedures system.⁵⁷ The primary objective of these procedures is to foster cooperation between the relevant governments in order to address and rectify human rights violations, as well as to prevent their recurrence. The special procedures of the Human Rights Council have a distinct characteristic of operating in an *ad hoc* manner, and their utilization in addressing human rights issues enables a more adaptable approach to addressing serious violations, compared to the treaty bodies. It should be noted that special procedures are not established by either the UN Charter or any specific treaty.

Upon appointment, a special procedure receives the mandate from the UN to investigate and address a specific issue related to human rights. With this authority, they are empowered to examine, monitor, and publicly report to the Human Rights Council. Depending on the nature of their mandate, they may focus on the human rights situation in specific countries (country mandates);⁵⁸ or on global phenomena that give rise to grave human rights violations worldwide (thematic mandates).⁵⁹ The working groups, special rapporteurs, independent experts, or special representatives of the Secretary-General serving in these roles, have their mandate and tenure determined by the decisions of either the Commission on Human Rights or the Economic and Social Council.

It is worth noting that certain special procedures can also be assigned to the UN Secretary-General or designated as Special Representatives. While the concept of special procedures was not initially conceived as a systematic framework, the establishment of nearly fifty (50) country and thematic mechanisms has effectively formed a comprehensive system for safeguarding human rights.⁶⁰

⁵⁶These procedures encompass both thematic and country-specific approaches and involve the participation of working groups, special rapporteurs, special representatives, and independent experts. The special procedures of the Human Rights Council consist of knowledgeable individuals in various human rights fields, who assume roles such as Special Rapporteur,⁵⁶ Representative, Independent Expert, or, in cases where the mandate is shared, Working Group. Special procedure also includes the 1503 complaints procedure, which seeks to identify situations of grave violations of human rights affecting large numbers of people.

⁵⁷United Nations, "Special Procedures of the Human Rights Council", *Human Rights*, <<http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>> [accessed 10/6/2023]

⁵⁸Currently, there are about 20 country mandates that monitor the human rights situations in designated countries like Afghanistan, Burundi, Cambodia, DRC Congo, Equatorial Guinea, Haiti, Iran, Iraq, Myanmar, Somalia, Rwanda, and Sudan.

⁵⁹Extant thematic mandates include the Special Representative of the Secretary General for Children in Armed Conflict; Special Representative of the Secretary General on Internally Displaced Persons; and those on Arbitrary detention; Effects of foreign debt on enjoyment of ECOSOC rights; Effects of illicit dumping of toxic wastes; Extrajudicial, summary and arbitrary executions; Sale of children, child prostitution and pornography; Structural Adjustment programme; and the right to development.

⁶⁰Special Rapporteurs and Independent Experts have been appointed to investigate various topics, including human rights during states of emergency, human rights and terrorism, human rights and scientific progress, human rights in the context of HIV/AIDS, human rights and forensic science, and human rights and income distribution,

These mechanisms operate by receiving and examining allegations of human rights violations from various sources, including the victims themselves, their relatives, and local or international NGOs. Such information can be conveyed through letters, emails, faxes, or even blogs. Once received, these complaints may be forwarded to the respective governments for clarification, and the outcomes are reflected in the public reports submitted by the mechanisms to the Commission on Human Rights or other relevant UN bodies. Moreover, these mechanisms have the authority to send urgent communications to the concerned government, urging immediate action to protect and uphold rights that, based on investigations or available information, appear to be at risk of violation. Furthermore, a mechanism may request a prompt visit to the country in question.

CRITIQUE OF UNITED NATIONS MECHANISMS FOR ENFORCEMENT OF HUMAN RIGHTS

Undoubtedly, the international legal frameworks for safeguarding human rights are subordinate to national legal frameworks. As such, the primary responsibility lies with domestic authorities, the states parties to the key UN human rights treaties, to determine the justified requirements for potential restrictions on the enjoyment of human rights, taking into account the necessity and proportionality of such limitations. The UN human rights standards and the mechanisms for their enforcement serve as supplementary international oversight tools. Their practical significance and effectiveness at the grassroots level primarily arise from the scrutiny of states parties' reports and the submission of individual communications under the relevant implementation mechanisms.

A notable limitation of the UN mechanisms for human rights protection is that certain UN legal standards on human rights include provisions that allow governments to derogate from specific human rights.⁶¹ Additionally, the effectiveness of the implementation mechanisms is compromised without the domestic incorporation of the conventions and covenants by the states' parties, hindering their fundamental objective of universally safeguarding human rights. This manifests in several ways. Firstly, it makes it difficult to enforce human rights at the national level, as there is no legal framework to do so. Secondly, it undermines the legitimacy of international human rights law, as states are not held accountable for their actions. Thirdly, it can lead to a lack of awareness among citizens about their rights and how to protect them. Fourthly, it can lead to a lack of political will to implement human rights standards, as there is no legal obligation to do so.⁶²

The ICCPR includes provisions that allow states parties to make derogations from their obligations under the treaty. This is arguably proper considering the issue of sovereignty of states. However, the implementation mechanism of this treaty is seen as having a significant

among others. Additionally, Working Groups are currently addressing issues such as contemporary forms of slavery, indigenous populations, and minorities.

⁶¹ See for example, Article 4 of the ICCPR. See Australian Human Rights Commission, "Derogation from rights in emergencies", available at <<https://humanrights.gov.au/>> [accessed 12/10/2023].

⁶² J Fraser, "Domestic Implementation of International Human Rights Treaties: Legislative and Other Effective Measures", *Cambridge Core* (London: Cambridge University Press, 2020); available at <DOI: <https://doi.org/10.1017/9781108777711.004>> [accessed 12/10/2023]. See also, AA Adede, "Domestication of International Obligations", in *Constitution of Kenya Review Commission*, (KECKRC 14-Common LII, 2001), available at <<http://www.commonlii.org/ke/other/KECKRC/2001/14.html>> [accessed 12/10/2023].

drawback, as it requires individuals who allege violations of their rights to first exhaust all available domestic remedies before seeking international recourse.⁶³ This may however be waived where local remedies are illusory. Where a communication to the HRC is anonymous, it shall be inadmissible. A communication is also inadmissible if the HRC considers it an abuse of the right of communication or incompatible with the provisions of the Covenant.⁶⁴ Additionally, although there is a procedure in place for member states to report on violations and non-observance of treaty obligations by other states, this mechanism has never been utilized.⁶⁵

The ICESCR states that the enjoyment of the guaranteed rights can be subject to limitations determined by law, which are compatible with the nature of these rights and aimed at promoting the general welfare in a democratic society.⁶⁶ However, when it comes to implementation, efforts to draft an additional protocol for the establishment of an individual complaints' procedure have been unsuccessful so far. This lack of progress is concerning.

In relation to the CRC, it is suggested that while states parties are obligated to prioritize the best interests of the child in all circumstances, there are insufficient provisions within the implementation mechanisms to adequately address the needs of this vulnerable group, which often lacks a strong voice in society.

Regarding the CPPCG, the responsibility for implementation rests with the Contracting Parties. Previously, the repression of international crimes relied heavily on national courts.⁶⁷ However, the establishment of the International Criminal Court (ICC) under the Rome Statute,⁶⁸ has provided an additional mechanism for the punishment of international crimes⁶⁹ as it introduced the concept of universal jurisdiction over international crimes, and provided a framework for exercising international criminal jurisdiction.⁷⁰ The ICC has indicted and in some cases prosecuted individuals responsible for serious violations of international humanitarian law, genocide, and crimes against humanity.⁷¹ These tribunals and courts have jurisdiction over crimes such as genocide, war crimes, crimes against humanity, among other international crimes. As noted elsewhere, “the ICC has publicly indicted 52 people. Proceedings against 20 are ongoing: 15 are at large as fugitives and five are on trial. Proceedings against 32 have been completed: two are serving sentences, seven have finished sentences, four have been acquitted, seven have

⁶³Art. 2 of the Optional Protocol to the ICCPR.

⁶⁴Art.3, *ibid*.

⁶⁵*United Nations Human Rights System*, op cit., p. 8.

⁶⁶Article 4(2) of the ICESCR. See also Australian Human Rights Commission, “Permissible Limitations on Rights”, available at <https://humanrights.gov.au/> [accessed 12/10/2023].

⁶⁷International Committee of the Red Cross, “International Criminal Jurisdiction” (2010), available at <<https://www.icrc.org/en/>> [accessed 12/10/2023].

⁶⁸Statute of the International Criminal Court, adopted in Rome on 17 July 1998. The ICC is intended to complement national courts, and can only exercise jurisdiction when domestic courts are unwilling or unable to prosecute individuals responsible for international crimes.

⁶⁹W Ferdinandusse, “The Interaction of National and International Approaches in the Repression of International Crimes”, *The European Journal of International Law* (EJIL) (2004), Vol. 15 No. 5), pp. 1041–1053.

⁷⁰Fischer, Horst, Claus Kress and Sascha Rolf Lüder (eds), “International and National Prosecution of Crimes under International Law”, *Current Developments*, (Berlin: Berlin Verlag, 2001), p. 873.

⁷¹International Justice Resource Center, “Internationalized Criminal Tribunals”, <<https://ijrcenter.org/>> [accessed 13/10/2023]; See also United Nations, “International and Hybrid Criminal Courts and Tribunals”, available at <<https://www.un.org/>> [accessed 12/10/2023]; and Cornell Law School, “international criminal tribunals”, available at <<https://www.law.cornell.edu/wex>> [accessed 13/10/2023].

had the charges against them dismissed, four have had the charges against them withdrawn, and eight have died before the conclusion of the proceedings against them.”⁷²

The ICERD explicitly prohibits racial discrimination in the enjoyment of human rights within the public sphere. However, it does not address discriminatory practices that may occur in private life, where many individuals often find themselves in situations of discrimination such as over religious freedom, tribal and ethnic roots, social status, cultural practices, employment, and servitude.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has a flaw in its provision that allows the implementing Committee against Torture to visit a country where torture is practiced only if the state party concerned gives consent. It raises concerns about whether political and governmental considerations would influence the grant of such consent.

The implementation of the CEDAW is hindered by the limited duration of the CEDAW meetings, which last for only two weeks per year. This significantly restricts the amount of time available for thorough examination of the treaty obligations of the parties.

The CRPD and its Optional Protocol lacks universal ratification, despite that it is widely recognized as a crucial human rights instrument.⁷³ This limits its effectiveness and undermines its potential to create a comprehensive and consistent global framework for disability rights. While the CRPD establishes the Committee on the Rights of Persons with Disabilities to monitor its implementation, the enforcement mechanisms are relatively weak. The committee's recommendations are non-binding, and there are no strong enforcement mechanisms in place to ensure conformance by member states.⁷⁴ Despite that the CRPD's definition of disability is broad and inclusive thereby recognizing disability as a social construct, there can however be varying interpretations and understandings of disability across different cultural, social, and legal contexts.⁷⁵ Many states lack the necessary resources, infrastructure, and capacity to fully implement the provisions of the CRPD.⁷⁶ While the CRPD acknowledges the intersectionality of disability with other identities and social categories, such as gender, race, and age, it does not provide explicit guidance or mechanisms for addressing the unique challenges faced by individuals with multiple marginalized identities. This can result in gaps in the protection and promotion of their rights. Meaningful participation and representation of persons with disabilities in decision-making processes, both at the national and international levels, is essential for ensuring their rights are effectively addressed.

While the United Nations has made significant efforts to establish a legal framework and mechanisms for the protection of human rights, there are several identifiable limitations regarding their effectiveness. Some of these are annotated below to include:

⁷²Wikipedia, [List of people indicted in the International Criminal Court](#) [accessed 15/10/2023].

⁷³[As of October 2023, the CRPD has been ratified by 186 States Parties. The Optional Protocol to the CRPD, which provides a mechanism for individuals to file complaints with the Committee on the Rights of Persons with Disabilities, has been ratified by 110 States Parties.](#)

⁷⁴This can result in limited accountability for violations of disability rights.

⁷⁵This can create challenges in implementing and enforcing disability rights consistently and effectively.

⁷⁶This can hinder the realization of rights for persons with disabilities, as adequate support and accommodations may not be available in practice.

1. Selective enforcement: The enforcement of human rights standards by the UN is often criticized for being inconsistent and influenced by political considerations. Some powerful member states receive preferential treatment, while others may face limited scrutiny or accountability for human rights violations.⁷⁷
2. Weak implementation: Despite the existence of international human rights treaties and conventions, the implementation of these standards at the domestic level varies widely. Many states fail to effectively incorporate human rights obligations into their national laws and policies, resulting in a gap between international standards and actual practice.
3. Limited enforcement mechanisms: The enforcement mechanisms within the UN system, such as treaty bodies and special procedures, lack the necessary authority and enforcement mechanisms to ensure compliance with human rights standards. Their recommendations and decisions are non-binding, and their ability to hold states accountable for violations is limited.
4. Lack of universality: While numerous states have ratified international human rights treaties, there are still countries that have not ratified or have only ratified them with reservations or interpretive declarations.⁷⁸ This undermines the universality and effectiveness of the human rights framework.
5. Insufficient resources and capacity: The UN human rights system faces resource constraints and limited capacity to effectively monitor and address human rights violations worldwide. This can lead to delays in handling cases, inadequate investigations, and a lack of timely and effective responses to human rights crises.
6. Inadequate protection of economic, social, and cultural rights: The existing legal frameworks and mechanisms tend to prioritize civil and political rights over economic, social, and cultural rights. This imbalance can result in a lack of attention and protection for vulnerable groups facing issues related to poverty, housing, health, education, and labour rights.
7. Limited participation of civil society: While the involvement of civil society organizations is crucial for the promotion and protection of human rights, their participation in UN mechanisms can be restricted or hindered by political, bureaucratic, or practical barriers. This limits the meaningful engagement of grassroots activists and affected communities.

CRITICISMS BASED ON CULTURAL RELATIVISM

Cultural relativism is a perspective that holds that human rights should be understood within the context of specific cultural, social, and historical factors, and that different cultures may have varying interpretations of human rights.⁷⁹ This perspective emphasizes the importance of cultural

⁷⁷For instance, Nigeria continues to enjoy non-mention by the UN despite widespread religious discrimination and targeting against Christians in its population demographics in Southern Kaduna, the Middle Belt States of Plateau and Benue, and some areas of the South East.

⁷⁸The USA, Iran, Sudan, Somalia, Nauru, Tonga and Palau, are yet to ratify the CEDAW. 30 countries, including Russia, USA, Egypt, Ukraine, Israel, have not ratified the Rome Statute. Dominican Republic has signed but is yet to ratify the Genocide Convention. The USA and Somalia have not ratified the CRC; while countries like South Africa and Saudi Arabia did not even sign the UDHR.

⁷⁹J Donnelly, "Cultural Relativism and Universal Human Rights", *Human Rights Quarterly*, (US, Baltimore: John Hopkins University Press) Vol. 6, No. 4, (1984), pp. 400-419.

diversity and recognizes that different cultures have different values and beliefs.⁸⁰ However, cultural relativism has been criticized for potentially justifying human rights abuses in the name of cultural tradition.⁸¹ While some argue that cultural practices and traditions should be respected and accommodated in the promotion and protection of human rights, others are of the view that some cultural practices can violate fundamental human rights and therefore ought not be tolerated. It is important to note that while cultural relativism recognizes the importance of cultural diversity, it does not mean that all cultural practices are morally equivalent or that human rights are not universal.⁸²

One criticism of the UN mechanisms for enforcing human rights is that it can sometimes impose a universal standard of human rights that does not adequately consider the diversity of cultures and contexts.⁸³ Critics argue that human rights norms and principles developed within Western societies may not be applicable or acceptable to all cultures around the world.⁸⁴ They argue that imposing Western values and standards on other cultures can be seen as a form of cultural imperialism.⁸⁵

Though the UN system acknowledges that different cultural, social and historical contexts exist, it upholds the universality of human rights as a fundamental principle; while striving to balance competing interests and promote universal respect for human rights. However, it still faces criticism of lacking the mechanisms and enforcement powers to ensure effective implementation of human rights standards, particularly in societies steeped in ancient cultural practices. Although the UN has established various human rights mechanisms and treaty bodies to monitor compliance, such as the UPR, their effectiveness can be limited. Some states may, citing cultural limitations, resist or ignore the recommendations and findings of these bodies, which weakens their ability to enforce human rights standards consistently. Furthermore, critics argue that the UN's focus on individual civil and political rights may overlook the importance of collective and socio-economic rights, which are often emphasized in non-Western cultural contexts. This imbalance in the prioritization of rights can perpetuate inequality and hinder the realization of a comprehensive and culturally sensitive human rights framework.

However, it is important to note that the universality of human rights is a fundamental principle of international human rights law, and that human rights are not culturally relative.⁸⁶ While cultural diversity should be respected, it should not be used as an excuse to justify human rights

⁸⁰United Nations, "Universality, cultural diversity and cultural rights", available at <<https://www.ohchr.org/en>>[accessed 13/10/2023].

⁸¹J Donnelly, *Human Rights Quarterly*, *op cit*.

⁸²*Ibid*.

⁸³BBC News, "UN criticized over new human rights council members", (12 October, 2018), <<https://www.bbc.com/news/world-45840980>>[accessed 13/10/2023].

⁸⁴Recent trends in Western civilizations or those that consider themselves as developed nations, where LGBT issues and same sex marriages are now characterized as "human rights", and the stiff resistance to these questionable "advancements in civilization" by mainly African nations, Russia and countries of the Middle East and Asia, except Japan and China, lend credence to the conflict between culture and human rights.

⁸⁵R Freedman, "Failing To Protect: Systemic weaknesses within the UN human rights machinery", *Universal Rights Group*, (2014). <<https://www.universal-rights.org/>>[accessed 13/10/2023].

⁸⁶V Carraro, "Promoting Compliance with Human Rights: The Performance of the United Nations' Universal Periodic Review and Treaty Bodies", *International Studies Quarterly*, Vol. 63, Issue 4, December 2019, pp. 1079-1093. Available at <https://doi.org/10.1093/isq/sqz078> [accessed 14/10/2023].

abuses or to avoid accountability for violations of human rights. Ultimately, finding the right balance between universal human rights principles and cultural relativism is a complex and ongoing challenge. It requires respectful dialogue, engagement with diverse perspectives, and a commitment to upholding the inherent dignity and rights of all individuals, while also acknowledging and respecting cultural differences and contexts.

RECOMMENDATIONS

The effective enhancement of UN mechanisms for safeguarding human rights plays a pivotal role in promoting a fairer and more equitable global society. The UN has made reasonable efforts in protecting human rights; however, there is room for improvement. In order to enhance the mechanisms within the UN aimed at ensuring the protection of fundamental rights, this article proposes the following recommendations:

1. Existing mechanisms may be strengthened for better implementation and enforcement of protections for human rights. Member states are encouraged to adopt a robust framework for implementing and enforcing international human rights treaties, including creating national legislation that aligns with international standards. Monitoring mechanisms may be established to ensure compliance with human rights obligations at the national level, and promote regular reporting by member states on their human rights efforts.⁸⁷
2. United Nations agencies, regional organizations, civil society, and other stakeholders should collaborate more and share information amongst themselves in the areas of pooling resources and expertise for more effective human rights protection efforts. These agencies may foster working partnerships with non-state actors, including businesses and academia, to promote a collective approach to human rights challenges.
3. An enabling environment for civil society organizations to operate, including protection from harassment, intimidation, and reprisals for their human rights work, is advocated. Further, the UN through its agencies may pressure national governments to provide capacity-building support and funding to strengthen civil society's ability to promote and protect human rights at the grassroots level.
4. It is also important to address the root causes of human rights abuses, such as discrimination, inequality, and lack of access to justice.⁸⁸ There should be adequate funding, through leveraging on innovative financing mechanisms, such as public-private partnerships to strengthen human rights initiatives, for all human rights mechanisms, including the Office for the High Commissioner for Human Rights.⁸⁹
5. The UN must ensure that experts serving in various human rights bodies are independent of political influence, through measures as clear guidelines for their selection and appointment, and promotion of diversity of gender, nationality and expertise.
6. The UN may consider investing in capacity-building programs for member states to enhance their ability to protect and promote human rights at national levels, and

⁸⁷United Nations, "Effective implementation of international human rights instruments: Development of the human rights treaty system", <<https://www.ohchr.org/en/treaty-bodies>>[accessed 13/10/2023].

⁸⁸H Moscrop, "Enforcing International Human Rights Law: Problems and Prospects". *E-International Relations* (ISSN 2053-862: 2014). Available at<<https://www.e-ir.info/2014/04/29/>>[accessed 13/10/2023].

⁸⁹M. Bednar, "Barriers to implementation of Human Rights Justice". Available at *UN Rights*, <https://www.universalhumanrightsindex.org/>, [accessed 15/10/2023].

- provide technical assistance to strengthen the running of national human rights institutions.
7. More and deeper collaborative work with civil society organizations, non-governmental organizations, and human rights defenders may serve to better inform the UN for a more comprehensive understanding of on-the-ground situations, and provide early warning systems to address emerging human rights crisis before they escalate.
 8. The UN should leverage more on technology for data collection, analysis, and reporting on human rights violations; as well as use social media and other digital platforms to raise awareness about human rights issues⁹⁰ and facilitate public engagement.
 9. The UN is invited to urgently work towards strengthening mechanisms for holding states accountable for human rights violations through transparent and impartial investigations, and getting such states barred from leveraging on the World Trade Organization's [WTO] global trade measures. The UN should go further by canvassing for the establishment of an international criminal court to address the most severe human rights abuses such as denying identifiable indigenous groups their right to self-determination; forceful Islamization such as practiced against the Yezidis of Iraq and Syria and Christians of Northern and Middlebelt regions in Nigeria; and open and verifiable discriminations against sections of a population, such as the Igbos of Nigeria.
 10. This article recommends that the UN integrate human rights considerations into all aspects of its activities, including peacekeeping missions, development programs, and conflict prevention efforts; as well as promote a human rights-based approach in international development and humanitarian assistance to states.

CONCLUSION

International human rights treaties and the multitude of resolutions adopted by the various UN establish a set of standards aimed at safeguarding the basic rights of individuals. These instruments also incorporate diverse monitoring mechanisms to enhance the effectiveness and efficiency of implementing these standards at the national level. According to international law, states are obligated to take measures that facilitate the practical realization of these standards, benefiting individuals and groups as outlined in the treaties and customary principles. This entails ensuring that domestic legislation aligns with international legal standards in the broad realm of human rights, providing avenues for redress to victims, prosecuting perpetrators, and combating abuses and impunity. Therefore, it is the responsibility of the states themselves, as parties to these treaties, to take the initial steps towards enforcing the standards established by the United Nations. It is suggested that the most effective approach to achieve this is through the enactment of domestic laws.

Lastly, it is noted that the effectiveness of the international human rights system relies on the active engagement of not only governments but also civil society and also social media in order

⁹⁰Digital information available on X, [formerly Twitter], since the October 7, 2023 atrocities committed by HAMAS and other Palestinian terrorist organizations against Israelis, helped create awareness on these atrocious acts, particularly the rapes of young Israeli women and desecration of their bodies; the retaliatory measure of the Israeli Army that has resulted in the deaths and displacements of thousand of Gazans, and indictment of UNRWA officials over their actions in Gaza.

to achieve the greatest practical impact. Through utilizing the established implementation mechanisms mentioned earlier, grassroots activists and advocates can present compelling evidence of human rights violations. By doing so, they play a crucial role in drawing attention to systemic issues and aiding governments and relevant United Nations bodies in their efforts to reduce or eliminate human rights abuses.