Forum: Human Rights Council (HRC)

Issue: Securing the universal application of International Human Rights



Law in Human Rights Courts

Student Officer: Ioannis Dimitrios Makrypodakis

**Position:** Deputy President

#### **Personal Introduction**

Dear Delegates,

My name is Giannis Makrypodakis and I am a 10th Grade student at Yannopoulos School in Glyfada. This will be my second time attending ACGMUN and my 5th conference in total. For this year's ACGMUN, I have the utmost honour of serving as the Deputy President of the Human Rights Council (HRC). It is one of my favourite committees, since it is the second committee I ever participated in and because of my personal interest in Human Rights. ACGMUN has a special place in my heart, as it was the first conference I ever attended and is now my first time chairing.

First of all, I would like to congratulate each and every one of you for taking part in this committee for the 8th Session of The American College Of Greece Model United Nations Conference. I hope that during the conference we will get to know each other better, prepare resolutions, debate and of course have fun. This particular guide is about the second topic of the HRC Committee which is "Securing the universal application of International Human Rights Law in Human Rights Courts" and it should equip you with all the fundamental information. Despite the study guide though, you are highly encouraged to conduct a research on your own so as to get a better and more thorough understanding of the topic. Also keep in mind that the bibliography can be helpful since it indicates the sources where you can get more information from.

Should you have any questions about the topic, committee, or conference in general, do not hesitate to contact me via email at <a href="mailto:ioannisdimitriosmakry@gmail.com">ioannisdimitriosmakry@gmail.com</a>.

I'm looking forward to meeting you all in March!

Best Regards,

Giannhs Makrypodakis.

# **Topic Introduction**

The International Human Rights Law (IHRL) is one of the most important regulations regarding human rights and is designed to promote and protect them on a global scale. IHRL is rooted in principles established by declarations, such as the universal declaration of human rights (UDHR), and treaties such as the International Covenant on Civil and Political Rights (ICCPR). All these principles and treaties are to be applied on a universal scale. However, applying these principles universally seems to be a major challenge in today's society. This is mainly because of the differences between member states in terms of culture, beliefs and regional laws that may pose a challenge. To be more specific, countries often fail to comply with court decisions due to cultural differences or conflicting local laws in comparison with other states. Additionally, it is expected for each country's people to have their own beliefs, which often poses a challenge in terms of applying the law appropriately.<sup>1</sup>

Human Rights Courts can be both regional and international, meaning they can be responsible for the area and state they are in or cover a global scale. Some indicative examples are the European Court Of Human Rights (ECHR), the African Court on Human and Peoples' Rights (AfCHCPR) and the Inter - American Court Of Human Rights (IACHR). These courts play a key role since that is where individuals seek redress when their rights have been violated. Because of that, it is crucial that International Human Rights Law is applied correctly and that these courts' jurisdiction remains completely independent. This is vital since that's how fair decision - making and the rule of law is upheld, meaning that there is equal application of international human rights law and accountability for each and every violation. Additionally, when a court is independent justice is dispensed fairly without prejudice and discrimination.<sup>2</sup>

First of all, a major challenge that is posed is the ability of every country in implementing the decisions taken by these courts. An example is the European Union, which dictates that all states must implement the European Human Rights Courts judge's decisions with no delay.<sup>3</sup> In occasions where states do not comply with the courts' decision and third parties like politicians may interfere, it is clear that these courts' authority is compromised. Universal Jurisdiction is also a vital sector regarding human

<sup>&</sup>lt;sup>1</sup> United Nations. "The Foundation of International Human Rights Law." *United Nations*, <u>www.un.org/en/aboutus/udhr/foundation-of-international-human-rights-law.</u>

<sup>&</sup>lt;sup>2</sup>"What Are Regional Human Rights Courts?" *ActInCourts*, <u>actincourts.arts.ubc.ca/international-human-rights-faqs/regional-human-rights-courts/.</u>

<sup>&</sup>lt;sup>3</sup>Parliamentary Assembly. "Implementation of judgments of the European Court of Human Rights." Council Of Europe, rm.coe.int/implementation-of-the-judgments-of-the-european-court-of-human-rights-/1680aaaa60.

rights, since it allows charges to be brought against individuals responsible for serious crimes, regardless of where the crime occurred.<sup>4</sup> Another significant issue which does not allow the smooth application of International Human Rights Law, is the cultural and legal standards. For this reason a declaration like the Universal Human Rights one is crucial in order for justice to be dispensed despite the culture, ethics and local laws.<sup>5</sup>

To secure the universal application of International Human Rights Law in Human Rights Courts, special measures shall be taken such as the publishment of overviewing monitoring bodies like the UPR which would track down if the law is applied correctly, and the improvement of the enforcement mechanisms which is quite important for strengthening the legal frameworks and of course assuring the courts' independent jurisdiction.<sup>6</sup> This raises the question of how securing universal application of IHRL aligns with this year's agenda theme Balancing Infinite Opportunities ( $BIO\Sigma$ ). Securing the application of law, specifically the International Human Rights Law, is vital for balancing infinite opportunities. It endures fairness, accountability and equality. These courts protect individual rights despite the background, country of origin and culture. By addressing justice fairly, it ensures that opportunities are accessible to everyone. Lastly, it promotes a world where all people can develop in a substructure of justice and respect for human dignity.

# **Definition of Key Terms**

## **International Human Rights Law**

"International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights"

<sup>&</sup>lt;sup>4</sup>"What is Universal Jurisdiction?" *OHCHR Seoul*, Office of the United Nations High Commissioner for Human Rights Seoul, <u>seoul.ohchr.org/sites/default/files/2022-10/09\_What%20is%20Universal%20Jurisdiction\_formatting\_FIN\_ENG.pdf.</u>

<sup>&</sup>lt;sup>5</sup>"Human Rights Beyond Dichotomy Between Cultural Universalism and Relativism | The Age of Human Rights Journal." *Revistas Científicas De La Universidad De Jaén*, revistaselectronicas.ujaen.es/index.php/TAHRJ/article/view/5476/4776.

<sup>&</sup>lt;sup>6</sup> "Enforcement Mechanisms: International, Types | StudySmarter." *StudySmarter UK*,

 $<sup>\</sup>underline{www.studysmarter.co.uk/explanations/law/human-rights-law/enforcement-mechanisms-of-human-rights/.}$ 

<sup>&</sup>lt;sup>7</sup> "International Human Rights Law." *Office of the United Nations High Commissioner for Human Rights*, www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law.

### **Universal Declaration Of Human Rights**

"The Universal Declaration of Human Rights is a historic document which outlined the rights and freedoms everyone is entitled to. It was the first international agreement on the basic principles of human rights"

# **European Court Of Human Rights(ECtHR)**

"The European Court of Human Rights is an international court set up in 1959. It rules on individual or State applications alleging violations of the civil and political rights set out in the European Convention on Human Rights. Since 1998 it has sat as a full-time court and individuals can apply to it directly"

#### Jurisdiction

"Jurisdiction means both the authority or power of the court to determine a dispute between parties as well as the territory over which the legal authority of a court extends" 10

## **Monitoring Mechanisms**

"The purpose of a monitoring mechanism is to further the effective implementation of the Rules. It will assist each State in assessing its level of implementation of the Rules and in measuring its progress. The monitoring should identify obstacles and suggest suitable measures that would contribute to the successful implementation of the Rules. The monitoring mechanism will recognize the economic, social and cultural features existing in individual States"<sup>11</sup>

#### **Universal Periodic Review**

"The Universal Periodic Review (UPR) is a unique process which involves a periodic review of the human rights records of all 193 UN Member States. The UPR is a significant innovation of the Human Rights Council which is based on equal treatment for all countries. It provides an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries and to overcome

<sup>&</sup>lt;sup>8</sup>"What is the Universal Declaration of Human Rights?" *Equality and Human Rights Commission*, <a href="https://www.equalityhumanrights.com/human-rights/what-are-human-rights/what-universal-declaration-human-rights.">www.equalityhumanrights.com/human-rights/what-are-human-rights/what-

<sup>&</sup>lt;sup>9</sup> "The European Court of Human Rights." *Council of Europe Office in Georgia*, www.coe.int/en/web/tbilisi/europeancourtofhumanrights.

<sup>&</sup>lt;sup>10</sup> "Jurisdiction definition | Legal glossary | LexisNexis." *LexisNexis* | *Legal and Professional Solutions and Products*, <a href="https://www.lexisnexis.co.uk/legal/glossary/jurisdiction.">www.lexisnexis.co.uk/legal/glossary/jurisdiction.</a>

<sup>&</sup>lt;sup>11</sup> "UN enable - Standard rules, page 6 of 6." *Welcome to the United Nations, www.un.org/esa/socdev/enable/dissre06.htm.* 

challenges to the enjoyment of human rights. The UPR also includes a sharing of best human rights practices around the globe. Currently, no other mechanism of this kind exists"<sup>12</sup>

# **State Responsibility**

"Under general international law, the responsibility of a State is engaged if the actions of its agents or actions otherwise attributable to it constitute internationally wrongful acts, in violation of its international obligations" <sup>13</sup>

# **Prisoners Of War (POWs)**

"For most of human history, in times of armed conflict, fighters falling into the hands of their enemy have been taken captive. In international armed conflict, such persons are known as prisoners of war (POWs) and have always been particularly vulnerable to abuse, due to their affiliation with the enemy and the fact that their captivity usually occurs against the backdrop of wartime animosity. Fortunately, the status of PoWs has drastically evolved over time— and we are far from the era when the expected outcome for captured soldiers was either execution or enslavement" 14

#### **Enforcement Mechanisms**

"Enforcement mechanisms are usually categorized by the type of UN body that receives communications or carries out the monitoring process. There are three broad categories of enforcement mechanisms: (1) charter-based mechanisms, such as the UN Commission on the Status of Women; (2) convention or treaty-based mechanisms, such as the Committee on the Elimination of Discrimination Against Women; and (3) mechanisms contained in UN specialized agencies, such as the International Labor Organization or the World Health Organization. Each of these bodies monitors either a specific human rights issue or particular treaties" 15

<sup>&</sup>lt;sup>12</sup> "Basic facts about the UPR." *ohchr.org*, United Nations Human Rights Council, <u>www.ohchr.org/en/hr-bodies/upr/basic-facts.</u>

<sup>&</sup>lt;sup>13</sup> "State Responsibility | How Does Law Protect in War?" How Does Law Protect in War? - Online Casebook, casebook.icrc.org/a to z/glossary/state-responsibility.

<sup>&</sup>lt;sup>14</sup> "Prisoners of War: What You Need to Know." *International Committee of the Red Cross*, 19 Aug. 2022, <a href="https://www.icrc.org/en/document/prisoners-war-what-you-need-know.">www.icrc.org/en/document/prisoners-war-what-you-need-know.</a>

<sup>&</sup>lt;sup>15</sup> "SVAW - International Law: United Nations System." *Human Rights Library- University of Minnesota*, hrlibrary.umn.edu/svaw/law/un/unenforce.htm.

#### Sovereignty

"Sovereignty is a political concept that refers to a dominant power or supreme authority. In a monarchy, supreme power resides in the sovereign, such as a king or queen. In modern democracies, sovereign power rests with the people and is exercised through representative bodies such as Congress or Parliament. The sovereign is the entity that exercises power without limitation." <sup>16</sup>

# **Background Information**

#### Historical Development to International Human Rights Law

International Human Rights Law did not exist for many centuries prior to WWII. The first actions were enforced by the International Labour Organisation(ILO) which eliminated forced labour. The International Labour Organisation(ILO) was established as a part of the Peace Treaty Of Versailles which was mandated to improve labor conditions and reduce injustice. After World War I (WWI), there were multiple attempts for the creation of a human rights system under each league of nations. The first two attempts were the establishment of a Mandate Commission, which dealt with petitions coming from individuals living in mandate territories, as well as a minority committee that was mainly responsible for complaints coming from minorities. Unfortunately, these attempts were not successful and came to halt with the declaration of the Second World War (WWII) due to these committees not having a strong enforcement mechanism to ensure their recommendations were carried out. The fundamental system for the promotion of human rights is based on the UN Charter which was adopted in 1945, and a plethora of treaties that were implemented by UN members like the Universal Declaration Of Human Rights and the International Covenant on Civil and Political Rights. This system was established by the United Nations Economic and Social Council(ECOSOC), which established the Human Rights Commission as mandated in article 68. The council elected 54 governmental representatives, despite the human rights record of the states concerned meaning that these states could have been violators of the law. Subsequently states labeled as some of the worst human rights violators were chosen to carry out as members of the commission. The main achievements of the commission were the elaboration and almost - universal acceptance of the Universal Declaration of Human Rights(UDHR) which is a key element for the establishment of the International Human Rights Law(IHRL), the International Covenant on Civil and Political Rights(ICCPR) and the International

<sup>&</sup>lt;sup>16</sup> "Sovereignty." LII / Legal Information Institute, www.law.cornell.edu/wex/sovereignty.

Covenant on Economic and the Social and Cultural Rights(ICESCR). Africa, Saudi Arabia and soviet bloc countries abstained due to objections and different policies. ICCPR, ICESCR along with UDHR form the so-called International Bill of Human Rights and this is because while UDHR establishes principles, ICCPR and ICESCR translate them into legally binding obligations. Altogether, they establish mechanisms and ensure the global standards for human rights. As mentioned before, the commission was able to adopt the Universal Declaration of Human Rights. The UDHR is agreed to be the foundation for the International Human Rights Law. While discussed before WWI, the International Human Rights Law was adopted along with the Universal Declaration on Human Rights in December, 1948<sup>17</sup>.

# The situation of human rights before the Universal Human Rights Declaration 17th to 19th Century

The situation of human rights before the universal declaration was devastating and vastly different from what they are today. One of the worst violations of human rights was the mass slavery wave back in the 17th century. Around 700 thousand enslaved Africans contributed to the establishment of the American Colonies. People were kidnapped and transferred from Africa to what is now the United States as slaves. In the 17th and 18th centuries enslaved Africans were mainly working on rice and indigo plantations of the southern coast. These people were living under inhumane conditions with no rights. Oftentimes the enslavers sexually assaulted the women they had as slaves. In 1662, the colony of Virginia introduced that the legal status of a slave would be inherited through their mother, which meant that women's children were also automatically slaves. After all these extreme conditions, some discussions and revolutions started, with the aim of slavery. It was right before the rise of the American revolution on the 19th April, 1775, that the first debates occurred for the abolition of slavery. Gradually both black and white abolitionists that helped for the endorsement of a new legislation led to the end of slavery in some northern states. Years later, on January 31st, 1865, the Congress passed and ratified in December 1865 the 13th Amendment which completely abolished slavery in the United States<sup>18</sup>.

<sup>&</sup>lt;sup>17</sup> United Nations. "International Human Rights Law: A Short History." *United Nations*, www.un.org/en/chronicle/article/international-human-rights-law-short-history.

<sup>&</sup>lt;sup>18</sup> "U.S. Slavery: Timeline, Figures & Abolition." *HISTORY*, 12 Nov. 2009, <u>www.history.com/topics/black-history/slavery.</u>

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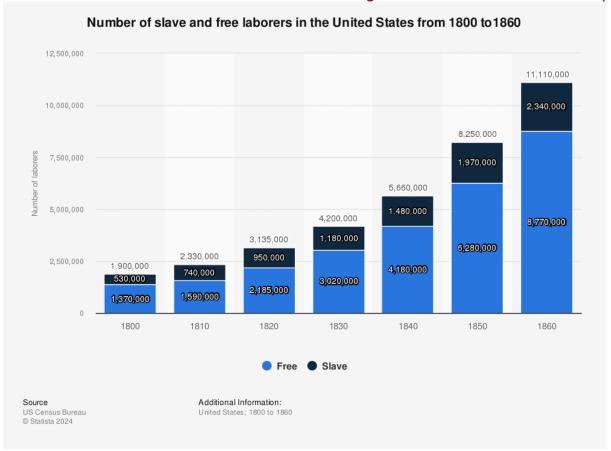


Figure 1<sup>19</sup>: Number of slave and free laborers in the United States from 1800 to 1860 19th century to 20th Century

Moving on to the 20th century in which the Universal Declaration on human rights was adopted. The situation of human rights was not satisfactory in comparison to today. Women were not legally protected by any means. Women having the right to vote was out of the question and if it was proposed everyone was shocked by it since they were prejudiced about women's rights. To be more specific, women didn't have a separate legal identity from her husband, meaning they could not even own property on their own. Women did not have access to education, such as college or university. They weren't allowed to work not work, except in rare cases which were paid only a fraction of what men earned. They could not pursue a career or serve on juries. These are some of the most severe forms of women's rights deprivation. These unfortunate realities reflected an underlying ideology about women and men that allocated the public realms of work and politics to men and that defined womens' place in society as radically domestic. With women constricted to the domain of home, their main

<sup>&</sup>lt;sup>19</sup> "Distribution of Slave and Free Labor in the U.S.1800-1860." *Statista*, <u>www.statista.com/statistics/1069688/us-labor-force-no-of-slaves-1800-1860/.</u>

responsibility towards the society was to raise high-minded sons, which would be the future citizens according to their ideology and devoted mother who was going to be a future mother. However, women pushed the boundaries of their domestic assignment. They invented forms of politics outside the electoral realm. To be more specific, by 1830, women like Sarah and Angelina Grimké started speaking publicly against slavery even though their presence was considered scandalous, since it was unusual for women to protest and claim their rights.<sup>20</sup> Moving on to the end of the 19th century, women achieved to appear in all kinds of public settings, creating a foundation for change in the following century. Some years later, specifically after the end of World War II, women's struggle for equality had achieved a mixed record of success. Their rights movement won equal opportunities in higher education and employment relatively quickly by 1940.<sup>21</sup>

But except for womans' rights, what was the general situation of human rights in the 20th century? In the meantime, before the adoption of the UDHR the world endured two global conflicts: World War I (1914-1918) and World War II (1939-1945). During these two wars the condition of human rights was detrimental. An example for human rights violations during WWI was the imprisonment of people as Prisoners Of War (POW) by Germany. To be more specific, the prisoners were put to work without access to food or shelter and there were massive human rights violations. Diseases like cholera spread because of the bad hygiene levels leading to many deaths. <sup>22</sup> However, the mass atrocity crimes and massive human rights violations took place during WWII. The violations of human rights during that period brought forth the need to establish a legal framework to protect human rights on a global scale and they did in fact play a vital role in the signing of the UDHR. The German Nazi Government's treatment towards Jewish people is the most documented and analyzed example of human rights violations during WWII. The Holocaust, in conjunction with the mass atrocities committed in Europe and Asia during WWII, made clear that there is desperate need for a legally binding system for the protection of human rights. The WWII aftermath made a "path" for the adoption of the UDHR some years later by the UN General Assembly. <sup>23</sup>

<sup>&</sup>lt;sup>20</sup> "Women in American Politics in the Twentieth Century | Gilder Lehrman Institute of American History." *Gilder Lehrman Institute of American History* |, <a href="https://www.gilderlehrman.org/history-resources/essays/women-american-politics-twentieth-century">www.gilderlehrman.org/history-resources/essays/women-american-politics-twentieth-century</a>.

<sup>&</sup>lt;sup>21</sup> "Women's Rights in the Late 20th Century." *Bill of Rights Institute*, <u>billofrightsinstitute.org/essays/womens-rights-in-the-late-20th-century.</u>

<sup>&</sup>lt;sup>22</sup> "Prisoners of War (Germany) / 1.0 / Handbook." *1914-1918-Online (WW1) Encyclopedia*, 16 July 2024, encyclopedia.1914-1918-online.net/article/prisoners-of-war-germany/.

<sup>&</sup>lt;sup>23</sup> Social Studies, <u>www.socialstudies.org/system/files/publications/articles/se\_7606301.pdf.</u>

#### The situation after the Declaration

The adoption of the Universal Declaration of Human Rights (UDHR) marked a significant improvement in the global protection of human rights being the first global human rights framework. Through the adoption of the UDHR a lot of conventions and treaties were implemented, as well as the establishments of multiple institutions which aimed to improve and safeguard human rights. Moreover, the UDHR's influence in the decades has been exceptional, playing a vital role in strides forward on womens' rights, progress on the health and education sector and inspired an eminent growth of civil society. This document is also the basic principle for the creation of international human rights treaties, laws and mechanisms<sup>24</sup>. The UDHR sets out for the first time, the fundamental human rights to be protected on a universal scale. The world had just been through two World Wars, massive inequalities, slavery, poor living conditions, mistreatment because of gender and a lot more that had made the world an unjust place for people to live in with no protection of human rights. The UDHR, also made the foundationfor the adoption of several significant conventions, like the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the International Convention on the Elimination of All Forms of Racial Discrimination (1965), Convention on the Elimination of All Forms of Discrimination against women (1979) and many more that introduced the world to a new era in which discrimination and violations had no place. Furthermore, the UDHR strengthened international cooperation in terms of establishing the United Nations Human Rights Council (UNHRC) and the office of High Commissioner for Human Rights (OHCHR). Overall, after the UDHR human rights were finally a priority and the United Nations the next goal was to ensure that it is applied correctly to every member state. Even though the declaration was voted on, there was still a major problem regarding how the UN would achieve the respect and enforcement by all member states.

# Challenges of applying the International Human Rights Law in Human Rights Courts

Applying International Human Rights law in Human Rights Courts is crucial for the fair dispense of justice. However, many challenges pose a threat to the smooth application of it. To be more specific, one of the primary challenges is the issue of compliance with the enforcement mechanisms. Moreover, unlike domestic law, which is managed by the power of each state, international law including IHRL is based on voluntary compliance by states, which means that a member state has the ability to choose whether or not to implement it which automatically eliminates the IHRL from contributing to the trials.

<sup>&</sup>lt;sup>24</sup> ---. "The Universal Declaration of Human Rights at 75: Our Shared Values and Path to Solutions." *United Nations*, www.un.org/en/un-chronicle/universal-declaration-human-rights-75-our-shared-values-and-path-solutions.

Whilst the International Legal system does include monitoring mechanisms for compliance and resolving altercations like the International Court Of Justice (ICJ), these mechanisms are oftentimes limited to their effectiveness because as mentioned above international law is not mandatory for states to comply with so the mechanisms can not do anything else if there are no measures takes to improve them. This results in states being able to flout their obligations towards the international legal system with amnesty diminishing the credibility and effectiveness of the system. Another fundamental challenge is the rigidity between the principle of state sovereignty and the need for universal governance. The concept of sovereignty, which means each state has the right to exercise power within a territory of defined borders, has been a keystone of the International Legal System. It is frequently a major challenge since member states refuse to implement the international human rights law as it should<sup>25</sup>. Moreover, another significant issue is non ratification of treaties. The United States Of America has not ratified any treaty pertaining human rights since December 2002, when it ratified two optional protocols to the Convention on the Rights of the Child. Since then, crucial new treaties have been adopted and long-standing treaties and have gained new member states. The US though has frequently remained neutral to these efforts. More specifically, the US along with Somalia are the only countries to have not ratified the Convention on the Rights of the Child, which is the most widely and rapidly ratified human rights treaty. Additionally, it has failed to ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) along with Iran, Nauru, Palau, Somalia, Sudan and Tonga<sup>26</sup>. All the aforementioned pose a major challenge in dispensing justice fairly, especially when applying the IHRL in human rights courts.

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<sup>&</sup>lt;sup>25</sup> "Challenges and Prospects of International Law in the 21st Century." *preprints.org*, file:///Users/john/Downloads/preprints202405.1893.v1.pdf.

<sup>&</sup>lt;sup>26</sup> "United States Ratification of International Human Rights Treaties." *Human Rights Watch*, 27 Mar. 2023, www.hrw.org/news/2009/07/24/united-states-ratification-international-human-rights-treaties.

# Ratification of 18 International Human Rights Treaties

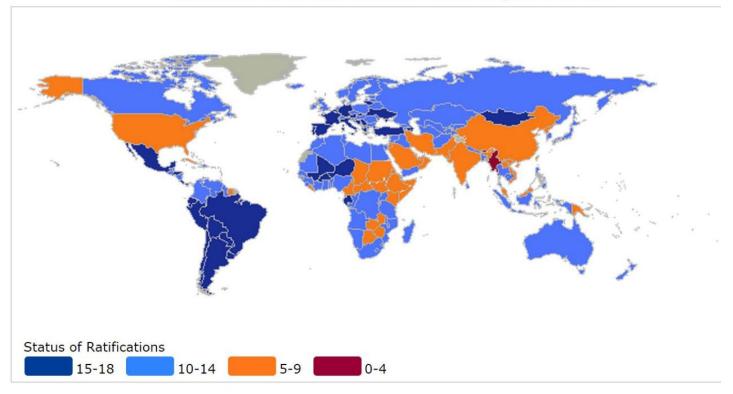


Figure 2<sup>27</sup>: Depicting the ratification of 18 International Human Rights Treaties on a global scale

# The establishment of the Human Rights Council (HRC)

The United Nations Human Rights Council (UNHRC) was established on 15 March, 2006 by the General Assembly and is the key UN intergovernmental body responsible for human rights. The council is composed of 47 state representatives and its mission is to promote and safeguard human rights around the globe, by reporting potential human rights violations and making recommendations on action to be taken, but also responding immediately to human rights emergencies. The Human Rights Council plays a vital role in reviewing the situation of human rights universally but also contributes to the successful application of IHRL in Human Rights Courts. One of the most fundamental key features of the HRC is the Universal Periodic Review (UPR). This unique mechanism aims to review the human rights of the 193 UN member states once every four years, and the process of the review is cooperative state-driven under the control of the council. Each member state has the opportunity to demonstrate measures they have taken towards tackling the issues that have occurred, as well as challenges to be met in order to improve the situation of human rights in their country and meet their international

<sup>&</sup>lt;sup>27</sup> "Status of Ratification Interactive Dashboard." - OHCHR Dashboard, indicators.ohchr.org/.

obligations. Since 2006, the council has established special bodies to look into violations in specific nations. These are investigative bodies, which gather reliable information regarding a human rights situation with the purpose of understanding what has been implemented and who is needed to be involved in future potential actions. The Human Rights Council plays a vital role in reviewing the situation of human rights universally but also contributes to the successful application of IHRL in Human Rights Courts<sup>28</sup>.

# **Major Countries and Organizations Involved**

#### **Russian Federation**

Russia had been a member of the European Council up until 10 March, 2022, when it announced its withdrawal from the council. But before that it was a member of it which meant it had to implement the European's Court's Of Human Rights(ECtHR) judgments. Even though Russia has ratified the European Convention Of Human Rights(ECHR) and has accepted jurisdiction of the court, since then the ECtHR has delivered over 900 judgments in which they found at least one violation of the ECHR. Additionally, the Russian Federation's prisoners are exposed to tremendous conditions, which result in cruel and shameful treatment. Furthermore, there is insufficiency in cases that involve police harshness. Russia's compliance with the court's judgments is of utmost importance for ensuring the implementation of the human rights so that everyone has access to it<sup>29</sup>.

#### **United States**

The United States Of America has played a major role regarding the topic of human rights. To be more specific, the US has championed developing frameworks like the UDHR and has supported financial associations, like the UN Office of the High Commissioner for Human Rights (OHCHR). Unfortunately, the US has some issues pertaining to human rights. Specifically, they have not ratified key treaties as mentioned previously on the study guide, and they have been subject for heated debate

<sup>&</sup>lt;sup>28</sup> ---. "Human Rights." *United Nations*, www.un.org/en/global-issues/human-rights.

<sup>&</sup>lt;sup>29</sup>Padilha, Saulo. "Enforcement of the Judgments of the European Court of Human Rights in Russia." *Sur - International Journal on Human Rights*, 17 Nov. 2017, <u>sur.conectas.org/en/enforcement-judgments-european-court-human-rights-russia/</u>.

because of the selective enforcement and resistance to mechanisms like limiting the effectiveness of the Inter-American court of Human Rights<sup>30</sup>.

#### **African Union**

The African Union (AU) is responsible for the promotion and safeguarding of human rights within the region. It consists of Judicial, Legal and Human Rights Organs. Their aim is to support the state compliance and implementation of respect for human rights within the continent. Additionally, they have adopted the African Charter on the Rights and Welfare of the Child, African Charter on Human and People's Rights on the Rights of Women in Africa, the African Youth Charter and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. Also, they have more legislative bodies like the AU commission on International Law, African Commission on Human and People's Rights and more. All of these ensure the protection of civil liberties within the African societies and ensure that policies and treaties are implemented. As seen, the AU is dedicated to continuously promoting and improving the human rights situation. The first and the most crucial is the African Court on Human and People's Rights(AfCHPR). It is one of the few human rights courts and the only one in the African region. In conclusion, it can be inferred that the AU considers human rights an extremely significant issue and they continuously work towards improving their situation.<sup>31</sup>

## **European Union**

The European Union (EU) is a vital organisation involved in securing the universal application of International Human Rights Law in Human Rights Courts. More specifically, it is based on a strong commitment to promote and safeguard human rights and the rule of law internationally. The EU has established the European Convention On Human Rights (ECHR) and the European Court of Human Rights. The Council Of Europe is Europe's oldest intergovernmental organization that is dedicated to ameliorate the human rights situation all across the region. At the moment, 46 member states across the region are members of the Council including the 27 members of the EU. Each and every member state has signed the ECHR meaning that they are obligated to apply the human rights standards the convention sets. All individuals can seek redress when their rights have been violated, to the European Court Of Human Rights(ECtHR). The EU highly values respect for human rights, which guides its

<sup>&</sup>lt;sup>30</sup> OAS - Organization of American States: Democracy for Peace, Security, and Development, www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023 Cap 4A ENG.PDF.

<sup>&</sup>lt;sup>31</sup> "Democracy, Law & Human Rights." *African Union*, <u>au.int/en/democracy-law-human-rights.</u>

internal and external actions. An example of Europe's commitment to promoting and safeguarding human rights, is the adoption of the Charter Of Fundamental Rights, which reinforces and complies with the national and international human rights systems. The charter has been legally binded since 2009 and it addresses institutions and bodies of the Union in all the actions they take, as well as National authorities of the European Union's when EU law is implemented. The EU also has an independent agency that aims to improve the human rights situation. It is the European Union Agency for Fundamental Rights (EUFRA). EUFRA is responsible for conducting research, collecting data, providing advice regarding the human rights issues and publishing reports regarding these issues. Additionally, the Union has an extensive legislative body that obliges member states to enforce human rights standards within the region. Lastly, the EU Convention on Human Rights ensures the compliance of the court's decision for each every member state<sup>32</sup>.

## **Human Rights Watch**

The Human Rights Watch (HRW) Organization is an independent non-governmental body that is mainly supported from individual and worldwide donations. HRW investigates and addresses potential human rights violations on a universal scale. It consists of more than 550 people who are country experts, journalists, lawyers who all together collaborate towards helping the ones at risk. The HRW's advocacy is aimed towards governments, businesses and armed groups pushing them to comply and enforce the law. The HWR is also monitoring the ratification of key treaties internationally giving us a clear image on how our world is progressing. These treaties play a major role in the application of the International Human Rights Law in Human Rights Courts since they are part of it<sup>33</sup>.

## **International Federation for Human Rights**

The International Federation for Human Rights (FIDH) is extremely significant. FIDH defends human rights globally and accompanies victims of extreme serious atrocities despite where they took place and who are the perpetrators. FIDH allows access to courts like the ECHR and oftentimes supports victims with legal expertise. It has been offering support to the International Criminal Court (ICC) since 2006 endorsing worldwide justice by preventing and punishing the commission of core crimes<sup>34</sup>.

<sup>&</sup>lt;sup>32</sup> "Human Rights in Europe." *OHCHR*, <u>europe.ohchr.org/human-rights/what-are-human-rights/human-rights-europe.</u>

<sup>&</sup>lt;sup>33</sup> "About Us." *Human Rights Watch*, 4 Dec. 2024, www.hrw.org/about-us.

<sup>&</sup>lt;sup>34</sup> "ICC." www.icc-cpi.int, www.icc-cpi.int/sites/default/files/RelatedRecords/CR2020 00497.PDF.

# **Blocs Expected**

**Alliance 1:** Countries that strongly support the implementation of human rights and want to improve the human rights situation, as well as secure the application of the IHRL in human rights courts: European Union Countries, United States, Latin America States

**Alliance 2:** The countries in this alliance are pro-sovereign, and are facing a lot of challenges regarding human rights violations. The human rights situation in these regions is satisfactory in comparison to parts of the world like Europe, USA etc.: China, Russia, Saudi Arabia

## **Timeline of Events**

Date	Description of Event
17th Century	Mass slavery in the USA.
31st January, 1865	The Congress passed the 13th Amendment which completely abolished slavery in the United States.
December 1865	Ratification of the 13th Amendment.
19th century	Women have achieved to be active in the public and they exercise their rights as they should.
28 June, 1914	World War I (WWI), took place but didn't have such a significant impact on human rights as WWII.
1 September, 1939	World War II (WWII) broke out, marking one of the worst atrocity crimes in history with massive human rights violations that led to the adoption of the Universal Declaration Of Human Rights (UDHR).
26 June, 1945	Adoption of the UN charter along with a plethora of treaties that were adopted by UN members.

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10 December, 1948	Adoption of the Universal Declaration Of Human Rights stating
	the fundamental human rights each and every of one is entitled
	to.
9 December, 1948	Adoption of the Convention on the Prevention and Punishment
	of the Crime of Genocide.
21 December, 1965	Adoption of the International Convention on the Elimination of All
	Forms of Racial Discrimination which is of utmost importance for
	today's society and entered the world to a new era without
	discrimination being left unpunished.
18 December, 1979	Adoption Convention on the Elimination of All Forms of
	Discrimination against women that along with the adoption of the
	International Convention on the Elimination of All Forms of
	Racial Discrimination have made a huge impact.
15 March, 2006	Establishment of the UN Human Rights Council, the UN organ
	responsible for the promotion and safeguard of human rights
	globally.

# **Relevant UN Resolutions, Treaties & Events**

## **UNGA Resolution 53/114: Declaration on Human Rights Defenders (1998)**

UNGA Resolution 53/114 was adopted back in 1998. It briefly states that "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" The aim of this resolution is to give everyone the right to legally defend human rights on a global scale.

# American Convention on Human Rights(1969)

<sup>&</sup>lt;sup>35</sup> 21. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998)." <a href="https://www.ohchr.org">https://www.ohchr.org</a>, <a href="https://www.ohchr.org/en/resources/educators/human-rights-education-training/21-declaration-right-and-responsibility-individuals-groups-and-organs-society-promote-and-protect.">https://www.ohchr.org</a>, <a href="https://www.ohchr.org/en/resources/educators/human-rights-education-training/21-declaration-right-and-responsibility-individuals-groups-and-organs-society-promote-and-protect.</a>

The American convention on human rights was adopted in 1989 and states that "Every person has the right to have his physical, mental, and moral integrity respected"<sup>36</sup>. To be more specific, the states involved in this convention must respect the rights and freedoms recognized in the document and ensure to all persons subject to their jurisdiction the complete and free exercise of these rights without any form of discrimination for reasons like race, language etc.

## **Universal Declaration Of Human Rights**

The Universal Declaration Of Human Rights is the first and most important document pertaining to human rights. It outlines the fundamental rights that everyone is entitled to for the very first time in world history. It has formed the basis for the International Human Rights Law and European Convention On Human Rights<sup>37</sup>

## **European Convention on Human Rights**

Proposed by Winston Churchill the convention was based on the principles of the UDHR. The Europe Convention On Human Rights was signed on 4 November 1950. It was founded by the Council Of Europe after WWII and aimed to protect and promote human rights, the rule of law and democracy. The convention made ground for the creation of the European Court Of Human Rights (ECHR), which protects and enforces the rights set out in the European Convention on Human Rights and the IHRL. ECHR is one of the most important human rights courts both in the region but on a global scale as well<sup>38</sup>.

# UN Human Rights Council (UNHRC) Establishment - 2006

The United Nations Human Rights Council was established on 15 March 2006. It is responsible for the safeguard and promotion of human rights globally. It is the UN's responsible organ for human rights. UNHRC has special enforcement mechanisms and monitoring bodies to track how well member states comply with the IHRL. Regarding this topic, UNHRC is of utmost importance because it is the only and official UN organ that can interfere and secure the universal application of IHRL in human

<sup>&</sup>lt;sup>36</sup> United Nations Treaty Collection, treaties.un.org/doc/publication/unts/volume%201144/volume-1144-i-17955-english.pdf.

<sup>&</sup>lt;sup>37</sup> "What is the Universal Declaration of Human Rights?" *Equality and Human Rights Commission*, www.equalityhumanrights.com/human-rights/what-are-human-rights/what-universal-declaration-human-rights.

<sup>&</sup>lt;sup>38</sup> "What is the European Convention on Human Rights?" *Equality and Human Rights Commission*, www.equalityhumanrights.com/human-rights/what-are-human-rights/what-european-convention-human-rights.

rights courts. The council adopts numerous resolutions and treaties and collaborates with other UN bodies like the International Criminal Court (ICC) and the International Court Of Justice (ICJ).

# **Previous Attempts to Solve the Issue**

# **American Convention On Human Rights**

The American Convention On Human Rights (ACHR) was put into force back in 1978. The ACHR created a legal framework for the states of the Organization of American States forcing these member states to comply, respect and ensure human rights. ACHR also established two mechanisms that are really important for tracking down and enforcing the IHRL and these are the Inter-American Court of Human Rights, which is responsible for deciding upon cases pertaining to human rights violations and the Inter-American Commission on Human Rights, which is responsible for investigating potential human rights violations. All the aforementioned but especially the two mechanisms play a vital role and have for many years so as for the IHRL to be enforced.<sup>39</sup>

#### Possible Solutions

#### **Establishment Of Overviewing Monitoring Bodies**

Overviewing monitoring bodies are essential for ensuring the application of IHRL in human rights courts. By creating specialized monitoring bodies it will be easier to track down potential issues regarding the enforcement of the law. Such bodies could be under the control of the United Nations which can collaborate with the EU and other organizations to track down any issue that may arise. Also, they will monitor whether the law is applied correctly during the trials in such courts. The organizations that will be collaborating will be having regional offices in the places where human rights courts exist (USA,Africa,EU) and there will be the employees that will be working in these offices and a group of 10 people that the organizations will choose based on the experience they have in aspects regarding the law. These people must be lawyers or judges. If they detect anything unusual or potential violations the

<sup>&</sup>lt;sup>39</sup> "IACHR :: Basic Documents :: Introduction." *Inter-American Commission on Human Rights (IACHR)*, www.oas.org/en/IACHR/jsForm/?File=/en/iachr/mandate/basics/intro.asp.

data will be sent directly to the UN Human Rights Council and decisions will be taken to ensure the issues are resolved.

# **Improving Enforcement Mechanisms**

The enforcement mechanisms are key organs of the UN, which ensure the smooth and correct application of the International Law and will enforce state compliance on each court's decision with no delays. It is really important to improve these mechanisms as they allow court's decisions to be imposed faster. The United Nations along with the International Court Of Justice (ICJ) can strengthen the legal framework and make it almost impossible for states to not comply with the court's decision. Also, they could set high penalties and fines for these states so as for them to not have a choice other than imposing the decision or else they will be charged with high fines. Additionally all the other members of the UN will impose sanctions like trade embargoes or diplomatic isolation for not complying with the decision of a court which is related to aspects regarding human rights and should be respected by everyone.

# Making Ratification Of International Human Rights Treaties Mandatory

Ratification Of International Human Rights Treaties is an issue that still concerns today's society. Unfortunately, there are still member states that have not ratified key treaties. The USA, despite having adopted the UDHR, has not ratified any other treaties since December 2002. International Human Rights Treaties have been signed in order to help the world develop into a better place, where inequalities and deprivation of human rights do not have a place. Making their ratification mandatory will ensure the dispense of justice more fair and will contribute to the universal application of the International Human Rights Law. This could be achieved through collaboration of legislative bodies through organizations like the UN and the EU. The member states that are part of the United Nations Legal Committee (GA6) along with the Human Rights Council could each propose and pass new resolutions in their committee that will make ratification of such treaties mandatory otherwise the enforcement mechanisms will have to impose different sanctions.

# **Ensuring Courts' Independent Judiciary Body**

Every court's Judiciary body should and must be independent. Specifically, when the judges are called to take decisions regarding human rights in human rights courts. An independent judicial system is a hallmark of a democratic state in which there is no discrimination among individuals because of the

position they hold in the society. When taking decisions in a court whether it is regarding a crime or convicting someone for violating the human rights of another individual, the judges must not be influenced by third member parties. Also, they should not accept any form of bribery in hopes of changing the outcome of a trial. Unfortunately, in some countries the judiciary body is not as independent as it should be. But such issues shall not exist. To eliminate such problems the UN in collaboration with the HRC and the American Psychological Association could make the judges of each court undergo a psychometric test every 5 months so as to evaluate whether they are able to make decisions clearly and they do not have any mental disorder.

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