

# INTERNATIONAL ORGANIZATIONS AND THEIR ROLE IN PROTECTION OF HUMAN RIGHTS

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## ABSTRACT

The contravention of human rights by international organizations are a possible side effect of their growing authority. International organizations increasingly developed safety measures to protect human rights from being violated through the policies. The accountability gap for conduct of International Organisations (IOs) conflicting with their members' human rights treaty obligations undermines the acceptance of IOs as a forum of international cooperation and weakens the achievements of the UN Covenants alike. This article examines three possible approaches to establish a legal link between IOs and their members' human rights treaty obligations. First, the treaty obligations could be transferred to IOs through the act of establishment. Second, IOs could be bound by the law of treaties to interpret their founding treaty in accordance with their members' human rights treaty obligations. Third, obligations of international cooperation could bind IOs to observe their members' human rights treaty obligations. All approaches face the challenge of paying deference to the independent legal personality of IOs as well as the *pacta tertiis* problem. The article demonstrates that IOs are bound to respect the UN Covenants to the extent their obligations are generally accepted. For determining and further developing substantive human rights obligations of relevance for IOs, the UN Covenants' Committees play a vital role.

## INTRODUCTION

The proliferation of International Organisations (IOs) in all areas of intergovernmental cooperation has entailed numerous conflicts with international human rights law. Human Rights Watch is an independent organization dedicated to defending and protecting human rights. Though targeted advocacy, Human Rights Watch aims to build public pressure on human rights abusers, and works towards legal and moral change to improve human rights around the world.

The proliferation of international agencies is a result of the interdependency of States as well as of a growing recognition that, without collective action, global problems cannot be solved effectively. Collective action is needed, if we want to combat growing inequalities between countries. It is needed if we want to control private actors, particularly transnational corporations who thrive on the recent wave of globalization. And it is needed, if we want to make progress towards a world governed by an international rule of law. International organizations are established as a means to institutionalize such forms of inter-State cooperation. Many of them fulfil a crucial function in contributing to the promotion and protection of human rights, which have become a shared responsibility of the international community. At the same time, the development of international organizations brings about its own problems. The problem most discussed is the lack of accountability for human rights violations. With few exceptions, only States are bound under international human rights treaties, while the exercise of powers by international organizations risks going unchecked and therefore, we face the classical problem of the transfer of powers unmatched by corresponding responsibilities. However, while the problems over accountability are indeed real, the almost exclusive focus on such issues risks obfuscating other potential difficulties that can emerge once we seek to make the requirement of accountability operational. For once we turn to the institutional implications of requiring accountability, we encounter the following dilemma: on the one hand, the need to ensure accountability when measures are adopted by international organizations that threaten human rights, may lead to affirm the international responsibility of their member States for such measures. But such an insistence on member States'

responsibility could jeopardize the ability of international organizations to fulfill their functions effectively, since such a development may lead States to tighten their control on the decision-making of the international organization, or to reserve the right not to comply with its decisions. If, however, we seek to impose upon international organizations that they comply directly with human rights obligations, we run another risk: such organizations may be tempted to act beyond their attributed powers in order to promote and protect human rights, in conditions which may be neither legitimate nor compatible with the instrument setting them up in the first place.

The principle is of course that, as subjects of international law, international organizations are 'bound by any obligations incumbent upon them under general rules of international law, under their constitutions or under international agreements to which they are parties'. For the moment the specific case wherein an international organization has acceded to an international human rights treaty is bracketed and focus upon it will resume below. Focus is instead upon the classical situation where the international organization is not a party to any such treaty and where, and thus, we must identify elsewhere the source of any human rights obligation it may be imposed. In any case, since most human rights treaties are not open to the participation of international organizations, it is in principle only by identifying sources of human rights obligations in general international law that we can hope to impose on them such obligations. Happily, this task is far from insuperable. While it seems difficult to argue that international organizations should be considered to inherit the human rights obligations imposed on their member States (1.), there is indeed a growing consensus in legal doctrine that most, if not all, of the rights enumerated in the Universal Declaration on Human Rights have acquired the status of legally binding norms (2.). The debate has now shifted, from the question of whether or not these rights have such status, to the question of the foundations for recognizing them their status.

## HUMAN RIGHTS COUNCIL

An intergovernmental body with membership encompassing forty-seven states, the Human Rights Council has the task of promoting and protecting human rights internationally. Its mechanisms to forward these ends include a Universal Periodic Review which assesses situations in all 192 UN Member States, an Advisory Committee which provides expertise on human rights issues, and a Complaints Procedure for individuals and organizations to bring human rights violations to the attention of the Council.

The central organisation in the field of human rights at the **global level** is the United Nations, which has gradually developed a comprehensive and extensive international human rights system. It is a multi-tiered and sophisticated system and fulfils a leadership role in the setting of new human rights standards. The **regional human rights systems** are diverse with regard to scope, institutional arrangements, obligations and mechanisms. In **Africa**, the African Union (AU) has led the way to establish a range of human rights instruments as well as institutions and mechanisms to monitor their implementation. The *African Charter on Human and Peoples' Rights* is remarkable as it not only codifies individual rights but also emphasises group rights as well as individual duties. The human rights system of **the Americas** has a long history, with the Organisation of American States (OAS) as the key organisation. The OAS has adopted various instruments and established a monitoring mechanism. It can be said that the OAS has developed Inter-American human rights and democratic standards, which contributed to the enhancement of democracy in the region. Although **Asian** human rights systems have developed later than their African, American or European counterparts, and the two regional organisations which have made such efforts, Association of Southeast Asian Nations (ASEAN) and South Asian Association of Regional Cooperation (SAARC), are mainly relying on soft-law instruments and the setting up of specific institutional arrangements for human rights is still inchoate. The **European system** is the most extensive and differentiated system with far-reaching obligations and monitoring capacities. Although the Council of Europe (CoE) is still the most important European human

rights organisation the role of the European Union (EU) has gained in importance over the last decades by gradually accommodating human rights principles in primary law including the adoption of a human rights treaty (Charter of Fundamental Rights of the European Union) as well as by incorporating human rights considerations in its European External Action Service (EEAS). There have also been some attempts to establish human rights standards in the so-called “Islamic” regions. Only the Arab Charter on Human Rights, however, has entered into force to date.

International human rights organisations were successful in creating an international forum for discussion and debate as well as agenda setting and decision making on human rights issues and prominently involving NGOs in this process. Some organisations have also done pioneering work concerning the development of human rights standards and the interpretation and adjudication of international human rights law. With regard to the implementation of human rights law and the prosecution and follow-up of human rights violations the picture is less favourable. Only some regional organisations have made an effort in this regard.

Another possible source of an IO’s obligation to observe its members’ human rights treaty obligations could be obligations of cooperation stemming from international human rights law if and to the extent that they reflect general international law. Following articles 1(3), 55(c) and 56 of the UN Charter, UN members are not only obliged to take joint and separate action, but also to cooperate with the UN to promote, respect and protect human rights. One result of this cooperation has been the creation of the UN human rights machinery, including the UN Covenants. The ICESCR further specifies these obligations of cooperation enshrined in article 56 of the UN Charter. Article 2(1) of the ICESCR requires states to ‘undertake to take steps, individually and through international assistance and cooperation’ to realise the rights recognised in the ICESCR. Further, its articles 22 and 23 suggest measures of cooperation including the negotiation and conclusion of agreements, the adoption of recommendations, bringing situations to the attention of relevant UN organs and agencies, or international assistance and training. Other non-binding instruments extend these obligations of cooperation to all human rights. The predominant view is that all these sources only establish obligations of cooperation that are limited to good faith procedural cooperation on human rights, but they do not permit to deduce obligations to observe substantive human rights.

## REFERENCES

- 1) <https://www.oecd.org/gov/regulatory-policy/international-organisations-and-role-in-irc.htm>
- 2) [https://www.researchgate.net/publication/340897533\\_Roles\\_Types\\_and\\_Definitions\\_of\\_International\\_Organizations](https://www.researchgate.net/publication/340897533_Roles_Types_and_Definitions_of_International_Organizations)
- 3) <https://www.cambridge.org/core/journals/international-organization/article/abs/role-of-international-organization-limits-and-possibilities/47091A954D09286F19128D907693697C>
- 4) <https://www.e-ir.info/2012/02/07/the-role-of-international-organisations-in-world-politics/>
- 5) [https://www.humanrights.com/voices-for-human-rights/human-rights-organizations/non-governmental.html#:~:text=In%20particular%2C%20nongovernmental%20organizations%20\(NGOs,acording%20to%20human%20rights%20principles.](https://www.humanrights.com/voices-for-human-rights/human-rights-organizations/non-governmental.html#:~:text=In%20particular%2C%20nongovernmental%20organizations%20(NGOs,acording%20to%20human%20rights%20principles.)
- 6) <https://study.com/academy/lesson/the-role-of-organizations-in-human-right-protection.html>
- 7) <https://libguides.library.usyd.edu.au/c.php?g=508191&p=3475914>
- 8) [http://hrp.law.harvard.edu/wp-content/uploads/2019/04/Gerald-Neuman\\_HRP-19\\_001.pdf](http://hrp.law.harvard.edu/wp-content/uploads/2019/04/Gerald-Neuman_HRP-19_001.pdf)
- 9) <https://www.mpil.de/de/pub/forschung/nach-rechtsgebieten/voelkerrecht/ipa/responsibility-organizations.cfm>
- 10) [https://www.tandfonline.com/doi/full/10.1080/18918131.2018.1453586.](https://www.tandfonline.com/doi/full/10.1080/18918131.2018.1453586)