

Protecting Civil and Political Rights: Comparative Analysis of International Human Rights Mechanisms

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ABSTRACT

This research conducts a comparative analysis of international human rights mechanisms to examine their effectiveness in protecting civil and political rights. The research aims to assess the strengths, limitations and contributions of various international mechanisms in protecting these fundamental rights. Part of the study process included a thorough analysis of international human rights treaties, agreements, reports, and case law from regional and international human rights organizations. The focus of the examination is on contrasting the mandates, responsibilities, and management styles of important international human rights institutions, including the Inter-American Commission on Human Rights, the European Court of Human Rights, and the UN Human Rights Council. These international organizations use a variety of tactics and resources to safeguard civil and political rights, which are made evident in its conclusions. The report lists common problems that these systems encounter, such as poor enforcement capacities, disparities in membership and participation, and the potential impact of political interests on decision-making processes. It also looks at how these processes have helped advance civil and political rights all throughout the world. The article discusses significant cases and rulings that have helped establish international and state standards for human rights legislation.

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1. INTRODUCTION

International human rights mechanisms are organizations and procedures designed to advance and defend human rights on a global scale. Treaties, conventions, monitoring organizations, and courts are only a few examples of these systems' many manifestations [1]. ILO is a worldwide human rights mechanism. With

ILO cooperation, The Commission for Economic, Social, and Cultural Rights and European Court of Human Rights assess and interpret cases [1]. Labor rights problems often use ILO principles and legal philosophy. They are a "significant addition" to the European Covenant on Human Rights and International Covenant on Economic, Social, and Cultural Rights [1]. Another such is the UN human rights treaty organizations, which

keep tabs on how states parties are enforcing the agreements. One of the most important global tools for protecting human rights is reporting on UN human rights treaties [2]. Recent research have linked government reporting to human rights monitoring groups to greater human rights [3].

Sustainability and international human rights may overlap. The UN framework for action emphasizes human rights and sustainable development, and the SDGs promote human rights in numerous ways [4]. International human rights processes promote and protect human rights worldwide. These methods monitor and enforce human rights standards to guarantee states respect, safeguard, and fulfill them.

International human rights treaties protect and enhance human rights. Key international human rights accords [5]. The 1948 UN General Assembly Universal Declaration of Human Rights (UDHR) establishes universal freedoms and rights. The 1966 UN General Assembly established the International Covenant on Civil and Political Rights. ICCPR protects life, expression, and religion.

The UN General Assembly adopted the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1966, guaranteeing labor, education, and healthcare rights [6]. CEDAW passed in 1979. This enforceable agreement reduces gender imbalance and discrimination against women.

The 1989 UN General Assembly Convention on the Rights of the Child (CRC) defines children's rights. These rights include freedom from abuse, medical care, and education. In 2006, the UN General Assembly approved the CRPD. Justice, employment, and education are covered under this treaty. It promotes human rights and is recognized by many states.

One article [7] evaluates Indonesia's progress on justice reform and human rights since the fall of the Suharto administration in 1998, claiming that despite initial efforts to incorporate transitional justice systems and international human rights standards into

Indonesian law, human rights reform has stalled. Another article [8] covers Indonesia's criminal justice system and legislative framework for law enforcement, with a focus on protecting human rights principles..

Another article [9] studies the efforts made by Palestinian human rights organizations to accomplish their objectives in order to analyze the part these organizations play in defending civil and political rights. According to the study, human rights organizations support the defense of many different rights, such as the right to life, bodily integrity, freedom of expression, and a fair trial.

These articles may shed light on human rights reform and judicial reform in Indonesia and the role of human rights groups in preserving civil and political rights abroad.

The maintenance of civil and political rights is a critical component of promoting human rights, democracy, and justice around the world. These liberties include several critical ones, such as the right to life, liberty, and personal security, freedom of expression and association, and the right to participate in political processes. Despite the fact that nations are ultimately responsible for preserving these rights, international human rights mechanisms are critical for monitoring compliance and holding governments accountable.

This study compares international human rights systems' civil and political rights protection. This study evaluates regional human rights tribunals, treaty bodies, and special procedures to understand their strengths and limitations and their potential to defend these rights.

2. LITERATURE REVIEW

International human rights organizations safeguard civil and political rights using several theoretical underpinnings. Human rights are based on the belief in each person's dignity and some basic freedoms. Cultural relativism emphasizes cultural diversity and local context in defining and enforcing human

rights, while universalism emphasizes their inherent and universal nature.

2.1 *International Human Rights Mechanisms*

The phrase "international human rights mechanisms" refers to the institutional structures and procedures that have been built at the international level in order to monitor and safeguard human rights. The regional human rights tribunals, treaty organizations, and special processes are all examples of these types of systems.

This study investigates the justifications for state adherence to international human rights law. The study demonstrates that domestic compliance mechanisms driven by constituents are in charge of compliance. Strong public support for compliance drives these systems, which increases elected officials' willingness to comply [10]. This study presents a novel hypothesis of the politicization of the enforcement of human rights laws. The study demonstrates that nations frequently attack their rivals on delicate matters that threaten the authority and viability of the target regime, while conversing with friends about more neutral subjects. The study demonstrates that governments penalize human rights infractions differently depending on their perceived "sensitivity" towards the target state by using data from the UN Universal Periodic Review, a complex human rights system [11]. The chances for a regional East Asian human rights framework are evaluated in this study. The theoretical foundation for developing regional human rights regimes is examined, as is the effect of globalization on human rights, as well as an evaluation of other regional human rights regimes and NGO contributions to them. The report evaluates the past attempts to create regional human rights structures in Asia, the current state of human rights in East Asia, and the status of human rights in East Asian NGOs [12].

The rhetoric of international human rights in contrast to the reality of women's rights. In order to assess whether or if international human rights law on women's rights is effective in promoting women on a global scale, the topic of this article is investigated. The argument made in this article is that despite the rapid expansion of formal international human rights law, there is still a significant gap between the aspirational wording of this legislation and its insufficient ability to be put into practice and enforced. This disparity between rhetoric and reality demonstrates that gender equality and rights cannot be improved by the use of universalist legal frameworks [13].

This study investigates whether national legislatures can effectively establish the legitimacy of international human rights treaties. According to the research, those who exercise the parliamentary veto by blocking legislation raise the price of formalistic repressive tactics. The use of extralegal tactics by executives may become more expensive as a result, reducing repression. This study demonstrates that the number of legislative veto players has a favorable impact on human rights treaties [14].

2.2 *Regional Human Rights Courts*

Regional human rights tribunals protect civil and political rights in certain regions. Examples are the AfCHPR, IACtHR, and ECtHR. These courts allow protests against governments that violate civil and political rights. They also interpret regional human rights legislation, set precedent, and rule.

2.3 *Treaty Bodies*

The International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture (CAT) create treaty bodies. These organizations are made up of unbiased experts who monitor how states adhere to their respective treaty duties. They review national reports, interact favorably with

nations, make recommendations, and provide trustworthy interpretations of treaty clauses.

2.4 *Special Procedures*

The UNHRC selects special rapporteurs, independent experts, working groups, and commissions of inquiry to address thematic or country-specific human rights issues. These processes conduct investigations, generate reports, and provide advice to the state. They are critical in addressing serious human rights challenges, raising awareness, and advocating the defense of civil and political rights.

2.5 *Comparative Studies on International Human Rights Mechanisms*

Experts compared international human rights frameworks' civil and political rights protection. Global human rights protection requires international human rights mechanisms. Treaties, agreements, and international courts promote human rights. A research contrasted the Inter-American Court of Human Rights, the European Court, and the UN Human Rights Committee. Origins, goal, legal framework, and efficiency were examined [15].

Another study looked at the criminality of human trafficking as well as the strategies for preventing, suppressing, and combating it. The study found legislative flaws in the systems used to combat human trafficking, particularly against people with impairments [16].

A research examined Poland and Russia's COVID-19 pandemic human rights. The authors contrasted EU legislation to those of non-EU nations, which commonly deploy undemocratic means of control [17].

Another research examines Ukraine's compliance of international human rights abatement laws. The paper examines the nature, causes, procedures, idiosyncrasies, and issues of human rights derogations [18].

Finally, a study contrasted the employment of human rights-based approaches (HRBA) in development by international non-governmental organizations (INGOs) and government agencies. The study looked into the cases of ActionAid and Sida and discovered that both have HRBAs in place but are working to completely integrate them. In practice, the biggest distinction is their interaction with the government and the poor [19].

These works examine international human rights systems such tribunals, human trafficking criminalization, human rights deterioration, and human rights-based development.

2.6 *Gaps in the Existing Literature*

While there is a large body of literature on international human rights mechanisms, there are still gaps in understanding their effectiveness in protecting civil and political rights. Some areas that require further exploration include the interaction and cooperation between different mechanisms, the impact of regional court decisions on state compliance, the effectiveness of remedies provided by treaty bodies, and the influence of political factors on the functioning of these mechanisms.

By addressing these gaps, this research aims to contribute to the existing literature and deepen our understanding of the strengths and weaknesses of international human rights mechanisms in protecting civil and political rights.

3. METHOD

This study uses a qualitative research approach to conduct a comparative analysis of international human rights mechanisms in protecting civil and political rights. Qualitative research allows in-depth exploration of complex phenomena and provides a rich understanding of the strengths and weaknesses of these mechanisms. The research design incorporates a comprehensive

literature review, document analysis, and case law review as primary data sources [20].

3.1 Comparative Analysis Framework

This research compares international human rights frameworks' ability to protect civil and political rights. Regional human rights tribunals, treaty bodies, and special procedures are examined in this study to assess their strengths and limitations and shed light on the challenges and opportunities for preserving these rights.

3.2 Evaluation Criteria

Several civil and political rights-related factors will be evaluated. Accessibility, independence, efficiency, enforcement mechanisms, due process, impact on civil and political rights, and responsiveness to societal changes and developing human rights concerns are examples. These standards will evaluate regional human rights courts, treaty bodies, and special procedures.

3.3 Data Collection Methods

The main data sources for this research are academic literature, reports, case studies, and official documents related to international human rights mechanisms. A comprehensive literature review will be conducted to gather existing knowledge and insights on the subject. In addition, document analysis will involve an examination of relevant legal instruments, court decisions, reports, and recommendations issued by regional human rights courts, treaty bodies, and special procedures.

Regional human rights court historic cases will be reviewed. These examples will be chosen for their relevance to civil and political rights and their potential to reveal these systems' strengths and limitations.

3.4 Data Analysis Methods

Data collected through the literature review, document analysis, and case law review will undergo qualitative data

analysis. This will involve coding and categorizing the data to identify recurring themes, patterns, and trends. Comparative analysis techniques will be used to examine similarities and differences among international human rights mechanisms in terms of their effectiveness in protecting civil and political rights.

Thematic analysis will be used to identify and analyze key themes emerging from the data. These themes will be linked to evaluation criteria to assess the strengths and weaknesses of each mechanism. The findings will be synthesized and presented comprehensively to provide a deeper understanding of the role and effectiveness of the mechanisms.

3.5 Case Selection

To conduct the comparative analysis, a purposive sampling method will be used to select relevant cases from regional human rights courts. The selection will be based on the importance of the cases in addressing civil and political rights issues and their potential to shed light on the functioning of these mechanisms. A variety of cases will be selected from different regions to ensure a comprehensive analysis.

4. RESULTS AND DISCUSSION

4.1 The European Court of Human Rights (ECtHR)

The European Regional Human Rights Court (ECtHR) was formed under the European Convention on Human Rights (ECHR). Council of Europe members elect court judges. The ECtHR interprets and implements the ECHR and ensures Member States comply.

ECtHR case law covers many civil and political legal concerns. The European Court of Human Rights has ruled on freedom of expression, fair trials, torture, and minority rights. Case law interprets her ECHR in an authoritative

way, serving as a blueprint for member states' national legal systems.

In Europe, the ECtHR has played a crucial role in defending civil and political rights. In order to ensure compliance with the ECHR, its judgements have prompted considerable legal and policy reforms in member nations. The judgements of the court have also helped to shape regional norms and standards for human rights.

The ECtHR does, however, face a number of obstacles to its functioning. Concerns have been made about timely access to justice due to the backlog of cases and the length of the legal processes. ECtHR rulings have not all been implemented equally by member states, and some have had trouble properly adhering to the court's decisions. Additionally, because of its reliance on individual petitions, the ECtHR may not be able to adequately address systemic human rights problems.

4.2 *Inter-American Court of Human Rights (IACHR)*

The American Convention on Human Rights created the Inter-American Court of Human Rights (IACtHR). It enforces and interprets American human rights laws. Judges are elected by OAS members.

Human rights in the Americas have been shaped by IACtHR rulings. The IACtHR has addressed enforced disappearances, extrajudicial murders, indigenous rights, and free speech. The court's case law interprets the American Convention and helps member nations protect civil and political rights.

The IACtHR has promoted and protected civil and political rights throughout the Americas. Its verdicts have led to substantial legal reforms, truth commissions, and reparations for human rights breaches. The court's rulings have also affected member states' legal systems and policies.

However, the IACtHR faces challenges in terms of its effectiveness. Some member states are reluctant to fully comply with the tribunal's judgments, leading to delays in implementing the judgments and ensuring redress for victims. The limited resources of the court and the geographical diversity of the region pose additional challenges to its functioning.

4.3 *African Court on Human and Peoples' Rights (AfCHPR)*

Africa's regional human rights court is AfCHPR. The Court hears African human rights cases under the African Charter on Human Rights and Peoples' Rights. The tribunal has African Union-elected judges.

Africa's civil and political rights are covered by the AfCHPR's expanding case law. The court has ruled on freedom of expression, fair trials, women's rights, and indigenous rights. The court's case law guides member states' human rights enforcement.

The AfCHPR has promoted and protected African civil and political rights. Its rulings have changed laws and policies, improving human rights across the continent. The court's decisions have allowed civil society organizations and individuals to seek justice for human rights breaches.

However, the effectiveness of the AfCHPR faces various challenges. The court's limited awareness and accessibility among the African population, as well as limited resources and jurisdictional constraints, may hamper its impact. The court's reliance on state referrals and individual petitions may also limit its capacity to effectively address human rights issues.

4.4 *Comparative Assessment*

These regional human rights courts perform similarly and differently. All three courts interpret regional human rights instruments, produce case law, and

enforce human rights norms. They have affected domestic legal systems, redressed human rights violations, and reformed laws.

However, the tribunals face challenges, including a backlog of cases, delays in implementing judgments, uneven compliance from member states, and limited resources and jurisdiction. To overcome these challenges, continued efforts are needed to improve the efficiency, accessibility, and effectiveness of regional human rights courts.

This comparative analysis provides insight into the strengths and weaknesses of these mechanisms, which can inform discussions on potential reforms and improvements. By considering the experiences and lessons learned from regional human rights courts, policymakers, human rights organizations, and civil society can work to strengthen the protection of civil and political rights at both the regional and national levels.

Treaty bodies are committees of experts established under specific international human rights treaties. They play an important role in monitoring state compliance with treaty obligations relating to civil and political rights. Treaty bodies are composed of independent experts who review state reports, engage in dialog with states, issue recommendations, and provide authoritative interpretations of treaty provisions.

4.5 *International Covenant on Civil and Political Rights (ICCPR)*

The ICCPR is a key international human rights treaty. The HRC monitors its implementation. Independent specialists analyze state reports and discuss state parties with the HRC.

The HRC requires ICCPR states to report on their implementation efforts. The HRC reviews these reports and makes conclusions on progress, concerns,

and improvements. The HRC receives individual complaints alleging ICCPR violations.

4.6 *Impact and Challenges*

The HRC's recommendations and interpretations of the ICCPR have influenced domestic legal systems and policies in states parties. The committee's jurisprudence has contributed to the development of international human rights law, particularly in areas such as freedom of expression, the right to a fair trial, and protection against torture.

However, the HRC faces challenges in terms of its effectiveness. Backlogs of state reports, limited resources, and varying levels of state compliance can affect the committee's ability to effectively monitor and address civil and political rights violations. The HRC's recommendations are non-binding, and enforcement mechanisms depend on the political will of states parties.

In addition to the ICCPR, other treaty bodies also oversee the implementation of human rights treaties relevant to civil and political rights. These include:

The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT). The Committee against Torture monitors state compliance with CAT. It reviews country reports, engages in dialog with states, and investigates allegations of torture or ill-treatment. The Committee issues recommendations and may conduct investigations in cases of systematic or gross violations.

1. Convention on the Elimination of All Forms of Racial Discrimination (CERD)

The Committee on the Elimination of Racial Discrimination monitors state compliance with CERD. It reviews state reports and issues recommendations to combat racial discrimination. It also considers

individual complaints alleging violations of the convention.

2. Convention on the Rights of the Child (CRC)

The Committee on the Rights of the Child monitors state compliance with the CRC. It reviews country reports, issues recommendations on child rights issues, and considers individual complaints relating to child rights violations.

3. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The Committee on the Elimination of Discrimination Against Women (CEDAW) oversees state conformity with the Convention on the Elimination of All Forms of Discrimination Against Women. It examines nation reports, makes recommendations to improve gender equality and women's rights, and hears individual complaints about violations of women's rights.

4.7 Comparative Assessment

Treaty bodies play an important role in monitoring and promoting civil and political rights globally. Each treaty body has its own mandate, reporting processes, and review mechanisms. Although they operate under different treaties, they share the common goal of protecting civil and political rights and ensuring state compliance.

A comparative analysis of the treaty bodies reveals strengths and challenges. Their recommendations and interpretations contribute to the development of international human rights law, influence domestic legal systems, and empower civil society organizations and individuals. However, challenges such as a backlog of reports, limited resources, and varying levels of state compliance impact their effectiveness.

Efforts to strengthen treaty bodies include improving reporting mechanisms, addressing resource limitations, and encouraging states to implement recommendations. Regular reviews of the functioning and effectiveness of treaty bodies can identify areas for improvement and promote the protection of civil and political rights at the international and national levels.

Overall, treaty bodies play an important role in advancing and protecting civil and political rights, and their work is critical to advancing human rights.

5. CONCLUSION

The comparative analysis shows that regional human rights courts and treaty bodies have different but complementary roles in protecting civil and political rights. Regional courts provide adjudicative functions, issuing binding decisions and orders, while treaty bodies offer monitoring and reporting functions, providing recommendations and guidance to states parties.

Both mechanisms have strengths and weaknesses. Regional courts have the advantage of binding decisions and the potential to have a direct impact on domestic law and policy. However, they may face challenges relating to access, resources and varying levels of state compliance. On the other hand, treaty bodies have a wider reach through their periodic reviews and the ability to consider individual complaints. However, their recommendations are non-binding, dependent on state cooperation and implementation.

To improve the effectiveness of these mechanisms, efforts should be focused on addressing challenges such as case backlogs, processing delays, resource limitations, and uneven state compliance. Strengthening cooperation between regional courts and treaty bodies can also facilitate harmonization and consistent interpretation of human rights standards.

Overall, the combination of regional human rights courts and treaty bodies provides a comprehensive framework for protecting civil and political rights, promoting

compliance, and ensuring accountability for human rights violations at both the regional and international levels.

REFERENCE

- [1] E. Sychenko, "Ilo Contributions To the Jurisprudence of International Human Rights Bodies," *Zb. Pravnog Fak. u Zagreb.*, vol. 71, no. 6, pp. 897–920, 2021, doi: 10.3935/zpfz.71.6.04.
- [2] J. Krommendijk, "The domestic effectiveness of international human rights monitoring in established democracies. The case of the UN human rights treaty bodies," *Rev. Int. Organ.*, vol. 10, no. 4, pp. 489–512, 2015, doi: 10.1007/s11558-015-9213-0.
- [3] C. D. Creamer and B. A. Simmons, "The Proof Is in the Process: Self-Reporting under International Human Rights Treaties," *Am. J. Int. Law*, vol. 114, no. 1, pp. 1–50, 2019, doi: 10.1017/ajil.2019.70.
- [4] L. C. ASUMU BENGGO, "Deciphering Sustainable Development within the Framework of the International Human Rights System," *Strat. Law J.*, vol. 6, no. 1, pp. 135–155, 2022, doi: 10.52907/slj.v6i1.182.
- [5] A. Amirova, "Extraterritorial Obligations in Core International Human Rights Treaties," 2020, pp. 835–840. doi: 10.1007/978-3-030-47945-9_89.
- [6] T. Kleinlein, "Social rights protection through core international human rights treaties beyond the ICESCR," *Res. Handb. Int. Law Soc. Rights*, pp. 111–125, 2020, doi: 10.4337/9781788972130.00015.
- [7] K. McGregor and K. Setiawan, "Shifting from International to 'Indonesian' Justice Measures: Two Decades of Addressing Past Human Rights Violations," *J. Contemp. Asia*, vol. 49, no. 5, pp. 837–861, Oct. 2019, doi: 10.1080/00472336.2019.1584636.
- [8] S. Nita, G. Studies, and U. Indonesia, "Law Enforcement in the Development Criminal Jurisdiction System in Indonesia Upholding Pancasila and Human Rights Values," *NOMOI Law Rev.*, vol. 2, no. 1, pp. 73–83, 2021, doi: 10.30596/nomoi.v2i1.6584.
- [9] S. Shilo and I. Iriqat, "The role of Palestinian human rights organizations in protecting civil and political rights: the case of Ramallah and Albireh Governorate," *An-Najah Univ. J. Res. - B*, vol. 37, no. 4, pp. 617–656, 2023, doi: 10.35552/0247-037-004-003.
- [10] M. Kim, "Public and elite opinion on international human rights law: Completing the causal chain of the domestic compliance mechanism," *J. Hum. Rights*, vol. 18, no. 4, pp. 419–438, Aug. 2019, doi: 10.1080/14754835.2019.1629891.
- [11] R. TERMAN and J. BYUN, "Punishment and Politicization in the International Human Rights Regime," *Am. Polit. Sci. Rev.*, vol. 116, no. 2, pp. 385–402, 2022, doi: DOI: 10.1017/S0003055421001167.
- [12] H. Hashimoto, *The Prospects for a Regional Human Rights Mechanism in East Asia (RLE Modern East and South East Asia)*. 2015. doi: 10.4324/9781315697796.
- [13] D. L. DeLaet, "Lost in legation: the gap between rhetoric and reality in international human rights law governing women's rights," *Glob. Discourse*, vol. 8, no. 3, pp. 387–404, Jul. 2018, doi: 10.1080/23269995.2018.1520006.
- [14] Y. Lupu, "Legislative Veto Players and the Effects of International Human Rights Agreements," *Am. J. Pol. Sci.*, vol. 59, no. 3, pp. 578–594, Jun. 2015, [Online]. Available: <http://www.jstor.org/stable/24583084>
- [15] R. David, "Comparative Study of Three International Human Rights Systems and Their Enforcement Mechanisms," *SSRN Electron. J.*, 2012, doi: 10.2139/ssrn.1566495.
- [16] L. A. Abu Dalu, "The crime of human trafficking against persons with disabilities. A comparative study," *J. Soc. Sci.*, vol. 10, no. 3, pp. 303–316, 2021, doi: 10.25255/jss.2021.10.3.303.316.
- [17] M. Pietras-Eichberger, "Human rights restrictions during the COVID-19 pandemic in Poland and Russia. Legal and comparative aspects," *Gubernaculum Adm.*, vol. 2(24), pp. 323–340, Jan. 2021, doi: 10.16926/gea.2021.02.35.
- [18] V. Denysov and L. Falalieieva, "Derogation in the Field of Human Rights: International Legal Instruments and Practice of Ukraine," *Int. Comp. Law Rev.*, vol. 20, no. 2, pp. 7–37, 2020, doi: 10.2478/iclr-2020-0016.
- [19] L. Tolander, "A Human Rights-Based Approach to Development—from Policy to Practice A Comparative Study between ActionAid and Sida," 2013.
- [20] J. W. Creswell, "Research Desain: Pendekatan Kualitatif, Kualitatif, Dan Mixed (Edisi Ketu)." Yogyakarta, 2013.