HUMAN RIGHTS DIMENSIONS

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CHAPTER 1

AN OVERVIEW OF ACADEMIC SPECULATION TO MAINSTREAM LEGAL ASPECTS

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ABSTRACT:

Human rights have undergone a substantial transformation in how they are understood and used, moving from the domain of academic theory to a prominent place within the legal mainstream. Human rights, which have historically been of little concern to jurists, have lately come to be seen as a modern manifestation of age-old ideas. The topic, which was first restricted to the hazy area where political complexities obscured pure legal structures, increasingly acquired popularity, particularly when seen through the lens of philosophical investigation. Despite having little direct influence on popular beliefs, this scholarly debate has been evolving as a result of the incorporation of politics into the legal system. Jurists have been compelled by this integration to do rid of extraneous academic components and embrace the developing positivization of human rights, bringing these rights closer to legal practice.

KEYWORDS:

Academic Change, Human Rights Evolution, Human Rights Theory, Human Rights Law, Legal Recognition.

INTRODUCTION

Human rights in general were formerly of only little importance to the jurist; yet, they are now a contemporary representation of a long-established fact. The topic of human rights, which has significant political overtones, was consigned to that hazy area where the unsettling shadows of politics overshadowed the light of pure law, which supplied the method favored by the jurist who is experienced in the examination of age-old codes of law. Only the philosopher of law was interested in human rights, and he did so in an effort to understand the motivations of the political elite. His academic approach was too solitary to have any impact on prevailing views, however. At the domestic level, this peculiar discomfort on the part of the jurist in relation to the issue of human rights is on the decline. The "integration" of politics into the legal system has had the effect of pushing jurists to abandon the surplus academic elements of their civil law education.

The increasing "positivization" of human rights has eliminated the programmatic quality that the academic works establishing them appeared to ascribe to them via the use of terminology that was undoubtedly out of step with the tradition of classical law, even if it may have been strong and even revolutionary. Today, judges are more and more inclined to draw the deciding argument that settles a case from the statements of rights that precede constitutions. Although there aren't many revolutions taking place right now in the name of human rights (which is maybe disappointing), there have been many legal actions taken to ensure that these rights are upheld. This shift in perspective more than anything else illustrates how human rights have entered the legal mainstream. But in actuality, the fate of human rights varies so greatly depending on the region in question that we are occasionally tempted to build frontier posts around the world with the inscription.

"Here begins the land of freedom" like the French revolutionaries did in 1789. However, it is not our purpose to investigate and pinpoint the origins of any differences between the implementation of human rights laws in other nations. Even if the research were fascinating, it would just serve to confirm a widely held belief namely, that it is very uncommon for real circumstances to comport with the law. Let it be noted, therefore, that such a disparity is not always to be criticized since it may show that man really enjoys better protection than that which is provided for him by legal rules. Thus, human rights may not adhere to the laws that established them. But before comparing the two which always includes a value judgment should we not first try to understand the circumstances under which human rights which have only been declared, even in solemn form, become entrenched as guaranteed rights become a reality in law? In other words, insofar as legal reality is synonymous with positive law and for the jurist, this cannot help but be the case), it is crucial to work toward establishing principles for a legal system of human rights whereby the individual may truly be ensured of his human rights and be able to enjoy them in his daily life. An important, but sometimes forgotten, sentence from the Universal Declaration of Human Rights' preambular section should be noted here.

The First Condition State of a De Juro

Only in a free State can a man be free. This obvious reality leads to the conclusion that human rights rely heavily on the legal framework of society as a whole and depend directly on the structure of the political institutions that govern peoples. This first condition really encompasses two requirements: The people who make up a State must have the freedom to choose its course (self-determination); and

i) Self-determination there has been a lot written on peoples' right to self-determination in relation to human rights. However, the writers often present self-determination as a true human right, inspired by the status that human rights possess in modern society. Since the United Nations Covenants on Human Rights begin by stating: "All peoples have the right of self-determination, the United Nations shares this view. By virtue of that right, they are free to choose their political status and to build their economies, societies, and cultures. As stated in the third paragraph of the same article, "The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right to self-determination and shall respect that right, in accordance with the provisions of the Charter of the United Nations." Peoples' right to self-determination has been able to be treated equally with and included in the category of human rights, although this seems to have more to do with political expediency than with any real justification. Self-determination, which can only be exercised collectively, is to peoples what freedom is to individuals—that is, it is the basic foundation of their existence. While the right to self-determination cannot be an individual human right, it is unquestionably a prerequisite for the mere existence of human rights in that, in the absence of it, man cannot be free since he is not permitted to achieve his own liberation. Although self-determination is a prerequisite for the upholding of human rights, does that mean it is also a sufficient condition? Since it is apparent that independence attained by self-determination has not always been equivalent with the emancipation of the community or that it has not always been followed by the liberty of individuals, no one would dare to assert it.
ii) The law is supreme Only in a Dejure State can human rights really exist in the legal system. Without delving into theoretical debates, it is sufficient to state that a de jure State is one in which all authorities and citizens are constrained by previously

established, impersonal, and universal standards, or, in other words, by the law. In fact, this was the dominant attitude at the time of the French Revolution, which just made clear a belief that had been held for a much longer period of time. Article 4 of the Declaration of the Rights of Man and of the Citizen of 1789 states that "the exercise of the natural rights of every man has no other limits than those which are necessary to secure to every other man the free exercise of the same right; and these limits are determinable only by the law." The role that peoples play in selecting their legislative body ensures that the law remains the best practical way for them to maintain the domain of human rights from the executive, even if it is scarcely the expression of the public will today, as Rousseau argued. In other words, the law is the only legal foundation for human rights, to the extent that it is the product of a legislature chosen by the people. Because of this, nations with a history of parliamentary government must be more likely to have human rights. Parliamentarism and human rights have historically developed together, with the former serving as a guarantee for the latter and the latter serving as the foundation for the former. Contrarily, it is exceedingly challenging for human rights to acquire support in nations where the notion that the activity of parliament should be the source of law is unknown and when the parliament is seen only as a venue for the recording of official decrees. Therefore, it is clear that ties between human rights and a nation's political system are built via the use of the law and the action of parliament. Moreover, under a political, economic, and social democracy, human rights are more likely to be realized. While the establishment of a democratic system is essential for the realization of human rights, democracy itself cannot survive in the absence of human rights.

A Certain Framework of Law is a Second Requirement

Without a designated position within the social structure in which they are to be practiced, human rights would be worthless. By virtue of the people for whom they are designed, human rights, which are fundamentally individual in nature since they are supposed to be enjoyed by individuals, form a social phenomenon. We ignore this final part of the issue much too often, which causes us to contrast human rights on the one hand with the government on the other.

Nobody would dispute that political power is necessary for daily living in society, which is the correct environment for human rights (possibly with the exception of outright anarchists). Chesterton is correct when he says that, in a society made up only of Hannibal’s and Napoleons, it would be best if none of them were in charge at once in case of surprise. But aren't human rights, which transform each of us into Hannibal’s if not Napoleons from the start, inherently at odds with the governmental power that results from social interaction? Starting from this mechanical and natural conflict, it is concluded that genuine restrictions must be placed on both the opposing parties if there is to be a balance between political power and human rights.

If human rights are to be enshrined in law, such a vision, which is predicated on a latent and possible confrontation between political authority and human rights, seems perilous. Because, as has been noted, "in conflict situations, human rights represent the rule of law without power, while, by contrast, political authority only sometimes represents the rule of law but always represents power. Therefore, in a confrontation, human rights will always come out on the short end.

But when you get right down to it, it becomes obvious that the social goal of human rights is not to be restricted but to be promoted in society, or to put it in legal terms, to be protected by a legal system. The freedom of traffic to move is not restricted when the legislature directs that it stays on one side of the route; on the contrary, it is made feasible. When the government assaults the right to property by nationalizing virtual monopolies or by enacting a steeply graduated tax, the goal isn't so much to restrict that right as it is to enable the largest number of people to profit. There are even many human rights that do not really exist unless the society establishes a space for them in the social order via the use of its political power. Unless the State establishes the circumstances that are favorable to its exercise, the right to work could not amount to anything more than permission to die of hunger. If the State did not provide the real facilities required for the exercise of that right, the vast majority would only have the right to ignorance instead of the right to education. In the end, it is clear that political power is necessary for human rights to function socially, if not making them reliant on it at least. Human rights and political power are not at odds; they really promote one another. Since human rights cannot be limited by political authority, they also shouldn't be used as a weapon against individuals in positions of control. It is instantly apparent that the authorities' establishment of legal texts to ensure the socially harmonious enjoyment of human rights would make it harder to sustain this necessary and reciprocal relationship. Because it is relatively simple for the political authorities to begin incrementally curtailing human rights after enacting the required laws for their protection, and eventually just suppress them[1]–[3].

Reasons for Creating a Legal System to Protect Human Rights: In order for human rights to be protected by the law, they must be controlled by a legal system that was created by a political power. The human rights of "others," the life of the group as a whole, and the life of humanity as a whole must all be taken into consideration while creating such a system, but it is crucial that the only goal be to facilitate their exercise.Without going into great detail about these three reasons for developing such a legal framework, we can simply state that if they are upheld, human rights will be recognized by the law, even if they may change depending on the time, location, and circumstances. As a result, laws protecting the freedom of the press, for example, cannot be the same in industrialized and developing nations. There is no question that in a country of the latter type, the mere fact that the press is controlled by foreigners necessitates the existence of different provisions, let alone the obligations that State is under to help the population overcome its economic underdevelopment. The notion of freedom, which is and should remain at the foundation of human rights, should not be in any way called into doubt by this relative nature of human rights in legal reality. In other words, it must be possible for human rights to continue to exist when legal provisions are established, regardless of their purpose or extent.

Successive Guarantees are the Third Requirement

Human rights would be of little value even if they were proclaimed by a free State and safeguarded by legislatively established legal provisions if those who are entitled to them were not given the means to seek redress in the event that they had been the victims of violations. There are two types of such promises: structured guarantees and disorganized guarantees. Organized assurances these protections are provided by the State in the form of legal processes that allow the aggrieved party to seek the revocation of the actions that violate his human rights or, if that is not feasible, monetary restitution. Since this issue is well-known, there is no purpose in delving into depth. It is also needless to underline the superiority of legal processes over those involving non-legal entities, particularly those of a constitutional origin. On a global and regional scale, structured processes currently exist. Some of them will be discussed in the pages that follow, however the legal character of such

procedures varies greatly from system to system. Imprecise assurances the right to refuse to accept an unjust law seems to be imprinted, if not in the explicit legislation of every nation, then at least in the consciousness of all persons, among other assurances of human rights. But the ultimate protection of human rights is resistance to tyranny when formalized methods fall short. Resistance against tyranny first received official recognition in the United States of America's Declaration of Independence on July 4, 1776, but it wasn't until the French Revolution that it really came to be seen as a guarantee of human rights. Therefore, as stated in the Declaration des droits de l'homme of June 24, 1793, "Resistance to oppression is the consequence of other human rights." Additionally, it includes the often-referenced clause that reads, "When the government violates the rights of the people, insurrection is for the people and for each section of the people the holiest of rights and the most indispensable of duties." The jurist would hesitate as a man before suggesting that this highest guarantee of human rights be put into action in the modern world, even if he cannot fail to acknowledge its importance. Because the modern State, especially when it receives foreign assistance, is so well-equipped, even the most just of revolts run the risk of turning into a bloodbath, despite the fact that in the 20th century it was still possible for a small amount of damage to the municipal highroads, caused by barricades, to bring about the fall of an oppressive government. Should we draw the conclusion, in the face of such obstacles, that defiance of tyranny belongs to the romantic era of our shared past and that human rights now are dependent on the goodwill of the State? Personally, I would be hesitant to provide a negative response to this awful question.

And it makes one feel even worse to have to respond in this manner since previously in this study, it was stressed how important it was to make political power and human rights reliant on one another in order to advance the latter. Even those who, by virtue of their political choices, expect a great deal of the State, warn us against this modern Leviathan. Sadly, we are forced to acknowledge the increasingly forceful hold that the State exercises over individuals and its increasingly numerous encroachments upon the sphere of individual freedom. Is it not indicative that a political figure has said in detail that the contemporary State, with its enormous structures, is fundamentally authoritarian and has a despotic inclination? Another English author has suggested that, while "up to now, the machine-gun has been regarded as the symbol of modern tyranny, it could perhaps be contended that it has been supplanted by the telephone and the card index," which expresses the same idea in a more colorful and thus more striking way. What should be done, then? The only option, however ineffective it may be, to get out of the corner into which the omnipotence of the contemporary State appears to have consigned human rights is to move beyond of the State's strict bounds and bring the issue of human rights to the world stage. Human rights should thus be regarded as an international problem the only really international problem whether this is within regional or global institutions. However, it would be absurd to believe that the globalization of human rights would be the answer to all of our problems. This delusion has to be avoided all the more since, at the moment, all international organizations including those that are often referred to as supranational are nothing more than inter-State organizations where the authority still lies with the same States[4]–[6].

The majority of the time, this turns out to be pecuniary in character. What happens if the State refuses to implement the court's ruling? No matter how naïve, gullible, or helpless the Convention's drafters were, they failed to account for this possibility. The Council of Europe Statute might therefore be used, at the very least, to contemplate expulsion of the offending State from the Organization. However, breaking the thermometer does not always result in an improvement in the patient's health. The only way out of this new dead end is to make a plea to each and every one of us, who are the first to care about protecting human rights.

As a matter of fact, the state's respect of human rights ultimately rests on us, the people. Only public opinion has the power to compel governments to uphold human rights, particularly when many nations' citizens are involved. Because, whether one likes it or not, public opinion still serves as the sole effective penalty against the infringement of human rights in today's society. It is for this reason that I fervently hope that this book, which is meant to be utilized in university instruction and in the preparation of human rights instructors, also serves as a tool for educating the broader public. The success of UNESCO's effort to advance knowledge of and protection for human rights rests on this.

DISCUSSION

Human rights have undergone a dramatic journey from academic speculativeness to legal mainstreamness that illustrates the meeting point of theoretical discourse and real-world application. This debate explores the complex process by which generalized notions of human rights have evolved into well-established legal principles, taking into account the historical setting, intellectual contributions, and social implications of this development.

Historical Context and Origins

The discussion of individual justice and dignity may be traced back to prehistoric societies, when the idea of human rights was first introduced. The ratification of the Universal Declaration of Human Rights (UDHR) by the United Nations in 1948, however, marked a turning point in the formalization of human rights as a complete framework. This was a turning point in the evolution of human rights from a theoretical discussion to a universally accepted standard.

Speculation among the academic community

Academic institutions and researchers have been crucial in influencing the development of human rights. The study and articulation of the theoretical foundations of human rights took place on rich academic ground. Theories from a variety of academic fields, such as philosophy, political science, and sociology, have helped to shape our sophisticated understanding of each person's intrinsic worth and rights. Human rights were conceptualized as being necessary for human flourishing by thinkers including John Locke, Immanuel Kant, and John Stuart Mill.

Shift to Legal Mainstream

The increasing integration of human rights ideas into national and international legal systems signified the shift from academic conjecture to legal mainstream. Emerging as legally enforceable documents were treaties, conventions, and regional accords, they enshrined basic rights and liberties. Examples of significant treaties that furthered the legal recognition of human rights include the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

Academic Contributions: Critical discussions that improved and widened our knowledge of human rights were sparked by speculative research. The universality of rights was contested, cultural relativism was criticized, and the conflicts between individual and collective rights were investigated. These academic discussions promoted an approach to human rights that is more inclusive and intersectional, reflecting the interconnectivity of diverse social identities and its impact on the exercise of rights[7]–[9].

CONCLUSION

The European Convention on Human Rights, a document that marks the greatest significant step towards the worldwide implementation of human rights, is the most vivid picture of this predicament. According to Article 50, it is the responsibility of the State that has been found "guilty" of a human rights violation by the European Court of Human Rights to take the appropriate action as the Court's ruling is not immediately enforceable. The Court may only provide "just satisfaction" to the harmed parties if the local legislation of the concerned State permits compensation for the effects of the infringement. Finally, the development of human rights from theoretical speculation to accepted legal doctrine serves as an example of the transforming power of ideas. This voyage demonstrates how academic theory and legal frameworks work together to create a more fair and equal society. The constant conversation between academics and the legal community is crucial for maintaining the advancement of human rights as we continue to struggle with changing socioeconomic issues.

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CHAPTER 2

EXAMINING THE ANCIENT AND MODERN CONCEPTS

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ABSTRACT:

The abstract summarizes a thorough investigation of the historical development and philosophical foundations that led to the current understanding of human rights. This voyage starts with the prehistoric societies that established the fundamental principles of inalienable rights, exhibiting instances like Sophocles' Antigone. The topic then moves on to the Middle Ages, emphasizing significant individuals like Aquinas while exposing the difficulties caused by intellectual restraints. A change occurs during the Renaissance when new philosophical perspectives challenge established notions of property and rights. Individual liberty and equality are introduced in revolutionary ways throughout the Enlightenment age, culminating in fundamental texts like the Universal Declaration of Human Rights. The discussion comes to a close by looking at the complexity of contemporary human rights, including cultural relativism and continuing discussions over their universality. With an emphasis on the linked historical, philosophical, and global factors that have defined human rights' growth throughout time, this summary provides a thorough review of the field.

KEYWORDS:

Antiquity, Contemporary Interpretations,Cross-Cultural, Ideals Enlightenment, Inherent Rights.

INTRODUCTION

The idea of human rights is encompassed by international law and constitutional law, the goals of which are to promote the establishment of humane living conditions and the multi-faceted development of the human personality while protecting the rights of individuals against institutionalized state abuses of power. This first general definition serves as a foundation for the formulation of the following fundamental laws, which will be examined in more detail later:

i) that human rights are a juridical concept;
ii) that in the legal system, human rights are covered by two branches of law;
iii) that human rights apply to both citizens and to all people; and
iv) that, contrary to a commonly advanced misconception, human rights protect a person who is not a citizen.

Background information on human rights history

According to some scholars, Greek antiquity is where human rights first emerged. They believe that natural law ought to include human rights. The famous instance, from Greek literature, is Antigone. According to Sophocles, Antigone responds that she behaved in line with the unwritten and immutable rules of heaven when Creon criticizes her for burying her brother despite being prohibited to do so. The typical inclination in philosophy is to frame the issue of human rights or, more specifically, the issue of man's inherent rights in terms of the stoic philosophy. However, it is important to emphasize that doing so obscures the issue at the theoretical level. Although an effort has been made to find certain concepts pertaining to this

topic in Cicero's writings, it is more challenging to trace the roots of human rights in Roman law. According to Ulpian, natural law is what nature teaches all living things. On the one hand, Roman law presupposed the existence of a natural law, which is to say, of man's innate rights. However, this natural rule is also connected to the jus gentium, which has at least two interpretations. It refers to the rights to which all men are entitled, regardless of where they live, and it also stands for international law. It initially denotes the rights of individuals who are not Roman citizens. It is important to remember that everything from the Graeco-Roman civilization stems from a system in which Aristotle approved of slavery, especially when discussing the current relevance of human rights. In such society, it was seen as absolutely normal and hence in accordance with natural law that there should be extreme social inequalities that preclude males from enjoying the fundamental human right to equality [1]–[3].

1. The Middle Ages were not conducive to the concept of human rights or to its upholding. Saint Thomas Aquinas, who was wholly influenced by Aristotelian philosophy, believed that natural law came from reason. As a result, the medieval philosophy of law, which was characterized by, among other things, Aquinas' acceptance of slavery in the manner of Aristotle, did not acknowledge those aspects of human nature that it did not comprehend. It specifically did not aim to put the human personality at the center of legal and social issues. Today, we would argue that philosophy was closed to any kind of man-centered thought. The second school of legal thought in the Middle Ages, which made significant advancements at the conclusion of that time period, concentrated on the State in its study and quickly came to the fundamental idea of the sovereignty of the State. This idea went on to become one of the biggest barriers to the global defense of human rights.

2. The circumstances under which the concept of human rights first emerged. the theory of contracts. To try to trace the history of human rights back to social systems that were unfamiliar with the fundamental preconditions for their existence, especially the concepts of freedom and equality, would be a catastrophic error. A new institution cannot be projected onto social ties that have been replaced and to which it does not relate. Human rights needed to undergo fundamental social changes in the production relations (and, more specifically, the ownership relations) within the previous social system, feudalism, in order to appear as the norm in society and to be perceived as both a need and a reality. Everyone's rights to ownership, the acquisition of, and enjoyment of property had to be acknowledged as being, in theory, equal. It's true that until Grotius, who placed the right to property outside the realm of natural rights, the right to property had previously been considered a natural right, or in other words, as a basic and inalienable right of man.

3. In order for us to avoid offending him, Grotius had said that the right to property had been "introduced by human will" and he had asked us to comprehend and think of our property as being in accordance with natural law. Two important concepts freedom and equality came from this line of thinking, although both later diverged from their original directions. The original concept of freedom was that of free ownership and possession of property. Later, the concept of free enterprise with all of its corollaries was added. But as they are responsible for both its evolution and appearance, its beginnings should never be overlooked. The concept of equality also has its roots in the emergence of a brand-new kind of ownership, at least in part. When examined

more thoroughly, however, it becomes clear that its actual origins are tied to the political notion of the State in the contemporary meaning of the word.
It stood for equality for everyone in relation to the right to own property. Additionally, it was about political involvement equality. Consequently, freedom had an economic nature, at least as far as its roots were concerned, while equality was, in a sense, a political notion and a political right. Every person should have equal rights in the life of the State, according to contemporary political thought. The idea of equality was then expanded to include all of man's attributes, including his skills and rights. However, there remained a significant distinction between freedom and equality: freedom was associated with ownership and was seen to be a right that the State could not curtail since it was an unalienable right. This wasn't the case with equality since it was seen of as a political right that the State might limit.

4. Generally speaking, writings that first emerged in more recent centuries may be used to trace the beginnings of human rights in terms of positive law. Human rights, in this perspective whose proponents are rare given that the majority of writers believe that they are fundamental freedoms are agreements made between the State and the populace, starting with the aristocracy. These agreements are thought to protect certain rights for males while keeping the State from interfering with those rights' exercise. Contrary to the notion of the contract based on natural law, it is believed that the legal standing of these rights is based on the will of the State or, in the case of the time, on the King's acknowledgment of them. Although they were created at different times and for different purposes, human rights or agreements with a similar objective in mind have been given the form of Charters, Bills or Petitions and, where appropriate, Declarations. This has led to these documents being placed on the same theoretical footing. The Magna Carta, the Petition for Rights, the Bill of Rights, the Declaration of Virginia and the Bills that followed it, and the French Declaration of 1789, in particular, are all discussed in great detail in the specialist literature.

What connections do these papers have to one another, then? Do they have the same social meaning and importance? Are the latter papers just copies of the earlier ones, or are they the logical conclusion of those earlier writings? George Jellinek's work on the human rights declarations (1904), which supported the idea that these papers built on one another and were therefore intimately tied to one another, created a stir throughout Central Europe. And he wasn't the only one who thought that way. Regarding the opposing viewpoint, it is sufficient to call attention to a footnote in Dicey's book where the author notes that the British declarations are actually "judicial condemnations of claims or practices on the part of the Crown" while the American declarations have the "distinct purpose of legally controlling the action of the legislature by the Articles of the Constitution."Another idea, which can be traced back to Locke and his Letters on Tolerance, is that the liberty to practice any religion should be the first step toward religious tolerance. Once again, it involves a conceptualization that alludes to natural law. Furthermore, given that religious freedom had a significant role in this relationship, this ideology helped pave the way for the founding of the United States of America. Of course, there are different ideas on what human rights are, such the idea that they developed from human knowledge. This type of ideas was prevalent throughout the Middle Ages. The Kantian view of law, based on reason, and almost all feudal versions of the natural law theory which regard the omnipotence of the absolute monarch to be a matter of natural law belong to this school of thought. Like all other theories, this one is compelled to begin with a set of antecedent commitments that may be used to infer human rights. These presumptions are revealed by the metaphysical nature of rights. There is a contrast between

the rights of man and the rights of the citizen in the French Declaration of the Rights of Man and of the Citizen of 1789 and various writings that followed. In these works, man is portrayed as a person who is thought to predate civilization and exist independently of it. The citizen is governed by the power of the State. Because of this, human rights are inherent and unalienable, while citizen rights are positive rights, those conferred by positive law. The same reason that human rights predate the State makes them basic rights; hence, citizen rights are dependent upon and subservient to human rights. Human rights are reintroduced into constitutional law in national systems as citizens' rights. Furthermore, the establishment of human rights is seen in constitutions. The French Constitution of 1791, whose text is prefaced by the Declaration of the Rights of Man and of the Citizen in 1789, had served as a model. Meanwhile, a special bias in constitutional law affects human rights, giving them a unique character that is connected to the internal organization of the State. Strangely enough, the various constitutions fail to specify which of the rights listed has a direct impact on the foundation of constitutional law, which ones require special laws to be passed in order to implement them, and in which situations. As a result, fundamental rights are provisions that are only binding on the legislature and are of no benefit to citizens other than through this indirect channel.

Economic, social, and cultural rights are item

No author writing about this subject dispute the fact that the socialist October revolution and the new circumstances it created led to the emergence of a new category of citizen rights in the Soviet Union and gradually throughout the entire world: economic, social, and cultural rights. The 1918 First Soviet Constitution outlined these rights. Additionally, they featured in the Mexican Constitution of 1917 and the Weimar Constitution of 1919. All contemporary Constitutions progressively included these. These rights have a dual social and state-derived nature. On the one hand, they convey the idea that a specific economic position, a certain state of material circumstances, in connection to, among other things, man's social and cultural status, is the basis for all other citizens' rights and the assurance of their efficiency. This creates a type of hierarchical connection between the many citizen rights that, although not taking on a separate shape, reflects the overall pattern of their emergence and of their effective activity. On the other hand, citizens' rights, of which they are a specific subset, include economic, social, and cultural rights. Economic, social, and cultural rights are not considered "rights" in the traditional sense, according to some writers, who also dispute their inclusion in the category of "human rights." Only those who rigidly understand human rights in terms of "natural law" advocate this point of view. Indeed, the issue of where the basis for economic, social, and cultural rights lies in terms of natural law might be brought up. Should they have their roots in logical law? It is reasonable that proponents of natural law are skeptical since these rights cannot be inferred from natural law. On the other hand, those who comprehend that citizens' rights and human rights are a result of positive law and the development of that law as determined by the development of society readily accept that as society advances and incorporates new spheres of social life and human existence, there must necessarily be an increase in the number of human rights. In order to foster the development of the individual's cultural individuality and his economic and social integrity, society must also enter into new commitments [4]–[6]. The list of citizens' rights and human rights has two distinguishing characteristics from the perspective of positive law. First of all, since the French Declaration, this list has continued to grow in line with societal growth, which has also been ongoing. We tend to believe that far too many human rights are being developed nowadays. Second, it is true that citizens' rights are not protected by a single social system but rather by the legal systems of many social regimes; in certain cases, it has even been argued that these fundamental rights were present in very early legal systems. Although they

are not inviolable, human rights are nonetheless a reality in many social systems. However, they are frequently seen in bourgeois society. Today's bourgeois society coexists with the new socialist system, which likewise upholds human rights. This reality leads to the conclusion that the limited scope of constitutional law at the national level is no longer enough to protect human rights, which cross international boundaries and so go beyond the purview of local public law. They are also formed more broadly by the same action. Due to this process, it would seem that the individual, as an autonomous person inside the State, becomes the subject of human rights, but in reality, this is not the case. Therefore, it may seem that human rights are different from citizen rights. In any case, a new quality namely, man appears. Again, this causes a great deal of uncertainty at the level of concepts. What are citizens' rights and human rights ultimately? Are they the same or, on the other hand, are they distinct? There is only one interpretation, based on natural law, that is consistent with the nature of both human rights and citizen rights. It really gives the same meaning to each of these rights. But I don't think this view is accurate.

DISCUSSION

The development of the idea of human rights throughout history as well as the guiding principles that have influenced it. This conversation explores the complicated history of human rights, from its beginnings in antiquity to the nuanced contemporary interpretations that highlight its importance on a worldwide scale.

Ancient Civilizations and the Development of Early Concepts of Human Rights

The debate opens with an examination of ancient civilizations, concentrating on how early cultures developed the idea of human rights. It emphasizes important precedents like the ancient Greeks, when intellectuals like Antigone from Sophocles' play shown loyalty to unwritten divine rules as a forerunner to the acceptance of inherent rights. The concept that people have certain rights based on their human nature, regardless of their socioeconomic station or citizenship, is highlighted in this section.

Emerging Philosophies and Medieval Challenges

The discourse focuses on the difficulties that human rights encountered throughout the Middle Ages when the plot shifts to this time. The effect of philosophical ideas, especially the Aristotelian and Thomistic viewpoints, on our concept of human rights is examined. These viewpoints' shortcomings, such as Aquinas' approval of slavery, provide light on the challenges that had to be overcome in order to put human dignity and individuality at the forefront of legal and social debates.

The Renaissance and Shifting Paradigms

The Renaissance saw a revival of intellectual thinking and a reassessment of human rights. This section examines how changing philosophical, political, and economic currents influenced society perceptions of individual liberties and rights. The discussion might center on influential authors like Hugo Grotius, whose writings questioned the idea that property rights are inherent and helped give rise to alternative theories of rights based on social contracts and human will.

The Enlightenment and the Origins of Modern Human Rights

A crucial turning point in the development of human rights occurred during the Enlightenment. New ideals that supported individual liberty, equality, and reason began to emerge throughout this time. John Locke and Jean-Jacques Rousseau, among other

philosophers, set the theoretical foundation for a broader conception of human rights. The debate might focus on how Enlightenment concepts influenced the American and French Revolutions, which in turn helped pave the way for the incorporation of human rights into key treaties.

Contemporary Human Rights

The discussion's last section shifts to the contemporary age and examines how the idea of human rights has changed and grown in response to global issues. It discusses the 1948 adoption of the Universal Declaration of Human Rights by the United Nations as a turning point in history, demonstrating the commitment of the whole international community to maintaining human rights as an essential component of human dignity [7]–[9].

CONCLUSION

As these rights define, in the end, the relations between the State and the citizen and define the domain in which the State does not intervene (negative domain), the Constitutions that followed no longer provide a general formulation of these rights in their preambles but instead incorporate them into the actual text as basic rights upon which the State is founded. In conclusion, the discussion titled "Evolution and Foundations of Human Rights: From Antiquity to Modern Concepts" offers an in-depth look at the historical, philosophical, and legal advancements that have influenced the contemporary conception of human rights. It underlines the human rights movement's ongoing significance as a dynamic idea that is always altering to reflect local and global settings.

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CHAPTER 3

NAVIGATING THROUGH FOUNDATIONAL TO CONTEMPORARY PERSPECTIVES

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ABSTRACT:

The summary of "Classification and Significance of Human Rights: From Foundational to Contemporary Perspectives" offers a thorough examination of the difficulties involved in classifying human rights in accordance with their relative value. The debate looks at historical settings, cultures, and social perspectives that have influenced differing assessments of the essential character of certain rights. The abstract demonstrates how changing interpretations have sometimes put social benefit ahead of individual rights via the prism of the right to property. The abstract explores the arguments for and against categorizing human rights as primary or secondary while taking into account the concept of indivisibility that guides contemporary human rights discourse.

International legal frameworks serve as a background for the examination of the conflict between prioritizing and the comprehensive character of human rights. It introduces the idea of fundamental rights and clarifies their significance as pillars of international law. The reaffirmation of basic human rights in the United Nations Charter is placed in its historical and present legal contexts. The abstract also explores the League of Nations' minority protection framework, which created the foundation for contemporary human rights defense by putting a focus on universal fundamental freedoms and unique safeguards for minorities.

The tale ends by implying that the minority system had an impact on the fundamental tenets of the United Nations Charter, influencing the dedication to human rights. The abstract offers insights into the dynamic link between fundamental rights and changing cultural attitudes and includes a thorough investigation of human rights categorization, from historical roots to modern interpretations.

KEYWORDS:

Cultural Variations, Fundamental Rights, Historical Context,Secondary Rights, United Nations Charter.

INTRODUCTION

Classifying human rights according to their respective significance or weight is undoubtedly dangerous. The basic character of certain rights has been a subject of varying appraisal and judgment throughout history, depending on the various cultures and locales. One example is the right to one's own property. While historically this right was regarded as unalienable, there has lately been a strong and rising trend to subordinate it to the needs of the overall welfare of society. Even though it was included in the Universal Declaration of Human Rights, disagreements about the idea and character of the right to property led to its exclusion from the International Covenants on Human Rights. Those who supported its inclusion in the Covenants said that "to omit it might create the impression that it was not a fundamental human right".

Here is yet another defense of not distinguishing between fundamental and other human rights. Such a difference might indicate that some human rights are prioritized according to their essential nature. The indivisibility of human rights and basic freedoms, however, is a common theme in contemporary human rights thought. This notion of indivisibility assumes that human rights are a single unit and cannot be ranked one above the other on a scale of importance. Even while all of this may be true, there are still strong reasons in favor of classifying basic human rights apart from other human rights. These basic rights are also known as elementary rights or supra-positive rights, meaning that they form the cornerstone of the international community even if their legality is not reliant on their approval by the objects of the law. In light of the preamble's declaration that the peoples of the United Nations are committed "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, etc.," it would seem that the United Nations Charter acknowledges this idea. This reaffirmation is not complete without mentioning key human rights principles that were previously covered by international law in its then-existing form. It is more appropriate to examine current human rights law to determine what rights may be regarded as fundamental, but it is still interesting to consult historical sources to put the Charter's reaffirmation of faith in fundamental human rights in the proper context.

In this context, the minimal standards of treatment of aliens4 and the doctrine of humanitarian intervention, which saw widespread violations of fundamental human rights as a justification for military action, may both be mentioned. These extremely basic rights, whose infringement can justify humanitarian action, were referred to as "droits humains" by an authoritative writer at the turn of the century. He included "right to life, right to liberty (physical and moral), and right to legality" under this heading. Respect for a number of fundamental human rights was outlined in the minorities treaties and declarations under the League of Nations system for the international protection of minorities, not only for the benefit of the minority components but also for all the citizens of the nations in question. The rights to life, liberty, and the exercise of one's faith and conscience were among these fundamental liberties. While these rights were guaranteed to all citizens, certain groups of people, such as nationals or members of racial, linguistic, or religious minorities, received special rights, such as the right to equality before the law, the enjoyment of other civil and political rights without discrimination, and the establishment and maintenance of religions, charitable organizations, and social institutions. In reality, it seems that the minority system was once again one of the fundamental components at the core of the UN Charter's "reaffirmation" of human rights, while only being a human rights duty for a small number of States [1]–[3].

It should be emphasized that the content, the value, and the weight of these fundamental human rights norms are constantly evolving, even if the foregoing might support the speculative conclusion that the community of nations as it existed at the end of World War II was at least bound by some supra-positive human rights norms, such as the right to life, the right to liberty, and the freedom of conscience and religion. Even the most fundamental human right, the right to life, is vulnerable to shifting beliefs about when life begins and ends. The "upgrading" of the principle of non-discrimination, particularly racial non-discrimination, on the hierarchical scale of human rights standards, inasmuch as there is any such scale, is another persuasive illustration of this process of growth. It is fair to state that no human rights concept has acquired such a prominent place in UN activity and practice as the abolition of racism and racial discrimination. Campaigns have been started (Decade of Action to Combat Racism and Racial Discrimination), machinery has been established (Special Committee on Apartheid, Ad Hoc Working Group of Experts, Committee on the Elimination of Racial Discrimination), and last but not least, norms have been developed (Declaration and

Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Suppression and Punishment of the Crime of Apartheid), which go, in The concept of racial non-discrimination has become one of the cornerstones of the international community as represented by the UN due to the strength of the prevalent feelings against racism and racial discrimination, the consciousness of urgency, and the political context. Even if they do not abide by the many international treaties especially intended to end racial discrimination and apartheid, members of this community are obligated by this principle under the UN Charter.

In its 1971 Advisory Opinion on the Legal Consequences for States of the Continued Presence of South Africa in Namibia, the International Court of Justice made notable mention of this viewpoint. The existence of very basic human rights is also supported by a significant body of legislation found in international human rights treaties and humanitarian conventions. This section of the legislation on human rights forbids deviations under any circumstances, including times of armed war or other national emergencies. The common article 3 of the four 1949 Geneva Conventions lists several acts that "are and shall remain prohibited at any time and in any place whatsoever." This article lays out a number of minimum humanitarian standards that must be observed in cases of conflict that lack an international component. The following actions are listed:

i) Violence against life and person, specifically murder of all kinds, mutilation, cruel treatment, and torture;
ii) Taking hostages;
iii) Outrages against personal dignity, particularly humiliating and degrading treatment;
iv) Passing of sentences and carrying out of executions without prior judgment pronounced by a regularly constituted court, providing all the judicial guarantees which are recognized as indispensable. The phrase "at any time and in any place whatsoever" in this common article 3 of the four 1949 Geneva Conventions emphasizes the worldwide applicability of these basic prohibitions.

Article 4, of the International Covenant on Civil and Political Rights lists the rights from which there may be no exceptions during a state of public emergency. The right to life, the right to be free from torture and cruel, inhuman, or degrading treatment or punishment, the right to be free from slavery and servitude, the right to not be put in jail solely for failing to fulfill a contractual obligation, the right to be treated equally under the law everywhere, and the right to freedom of thought, conscience, and religion. In similar language, regional human rights treaties list the provisions from which no exceptions may be made.

As was already said, the concept of racial non-discrimination is a cornerstone of the current doctrine and practice of the United Nations. In a similar vein, other international organizations have come to understand the fundamental importance of certain human rights values in relation to their work and objectives. As a result, they have established special machinery or developed special procedures in order to promote or defend these fundamental human rights values, even in the absence of conventional obligations. The International Labor Organization's special process on freedom of association is a good example.

Even against States that are not technically bound by the IL0 treaties on freedom of association, this method, in which the Governing Body Committee on Freedom of Association plays a key role, may be used. The Governing Body Committee claimed, among alia, that "the principle of freedom of association is one of the aims of the ILO, as mentioned in the preamble to its Constitution," in response to the criticism that Member States' duties come only from ratified agreements and approved recommendations. Additionally, the

Constitution's Declaration of Philadelphia, which outlines the ILO's goals and objectives, reiterates the value of freedom of speech and association, among other things. In other words, the IL0's fundamental ideal of freedom of association is one that all Organization members must uphold. Due to this, the fundamental ideas of the conventions on freedom of association must be viewed in the context of the International Labor Organization's Constitution, specifically the Declaration of Philadelphia. As a result, these ideas are fundamental tenets of the Organization and are binding on all of its members. Another illustration that supports highlighting certain essential human rights comes from the Inter-American Commission on Human Rights, which is a practice of the Organization of American States. The American Declaration of the Rights and Duties of Man contains the following human rights, which were asked to be specifically observed by the Commission by the Second Special Inter-American Conference in Rio de Janeiro in 1965: the rights to equality before the law, to freedom of religion and belief, to freedom of inquiry, opinion, expression, and dissemination (Article IV), to a fair trial (Article XVIII), to freedom from unwarranted arrest (Article XXV), and to due process of law. These rights are outlined in Article I of the Constitution.

For the treatment of communications alleging the breach of any of the aforementioned rights, the Commission devised a unique procedure. These rights were reportedly seen to be so fundamentally important that the Inter-American Commission on Human Rights felt they warranted particular attention, as well as unique authorities and procedures in case of their claimed infringement. It is also possible to infer the nature of some humanitarian norms from international criminal law and the rapidly evolving legal framework surrounding the "question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories." The strongest evidence of basic standards that should be regarded as supra-positive may be found in the Convention on the Prevention and Punishment of the Crime of Genocide. When it said that "the principles underlying the Convention are principles which are recognized by civilized nations as binding on States, even without any conventional obligation," the International Court of Justice affirmed this. The Convention on the Non-Applicability of Statutory Limitations to Crimes against Humanity and War Crimes should also be included. With this Convention, the idea that war crimes and crimes against humanity have no statute of limitations will be upheld in international law.

It also expresses the concept that certain rules are so fundamental to humanity and the international community that serious transgressions of them, as opposed to transgressions of other humanitarian norms, do not in any way lose their criminal nature with time. Last but not least, it is argued that the UN Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities have been given a mandate regarding human rights violations since 1967 that takes into account both the quantity and moral quality of those violations. The Economic and Social Council authorized the Commission and Sub-Commission in resolution 1235 (XLII) of June 6, 1967, to "examine information relevant to gross violations of human rights and fundamental freedoms, as exemplified by the policy of apartheid as practiced in the Republic of South Africa and in the Territory of South West Africa, and to racial discrimination as practiced, in particular, in Southern Rhodesia, contained in the communications listed by the Secretary-General."

Additionally, the ECOSOC resolution 1503 (XLVIII) of May 27, 1970, contains a detailed procedure for handling communications relating to human rights and fundamental freedoms violations, particularly insofar as those communications indicate the existence of "particular situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights requiring consideration by the Commission." It would seem that the

Commission's and its Sub-Commission's authority in cases involving breaches of human rights is related not only to the scale of the violations but also to their severity and the underlying principles of the applicable human rights rules. The policy of apartheid and racial discrimination in Southern Africa, which is specifically cited as an example in ECOSOC resolution 1235 (XLII), at least offers some essential guidance on the systematic pattern or massive nature of the violations and on the core principles of the human rights values at stake.

Much has been stated about basic human rights in the previous section, but relatively little has been said about "other" human rights. This method's justification may be found in the chapter's discussion of how to discern between "other" human rights recognized by national and international law and basic human rights. In order to wrap up, it could be helpful to review some of the qualities of basic human rights.

These rights are the cornerstone of the international community as it is now embodied in the UN and, to a lesser extent, in other significant international and regional organizations. When there is prima facie evidence of significant abuses of these rights, international organizations have the power to intervene. Members of these organizations are obligated to uphold these basic rights. Since they are obligatory on States even in the lack of any traditional obligations or explicit acceptance of comment, these fundamental rights have a supra-positive nature. Furthermore, there can be no deviation from the validity of these basic rights under any conditions, regardless of location or time.

DISCUSSION

Human rights have long been categorized according to their relative importance, a subject of discussion and analysis. This conversation bridges the gap between traditional and modern viewpoints by delving into the difficult subject of defining human rights and examining how the public's perception of their importance has changed through time.

Historical context and cultural diversity

Throughout history, many civilizations and cultures have weighed the importance of various human rights according to their own standards and norms. The debate begins by reviewing the historical background and pointing out how social circumstances have impacted how important certain rights are regarded to be. The example of the property right is instructive, as its standing has changed from being seen as unalienable to possibly being subjugated to demands of community benefits.

The discourse examines the nuanced difference between basic and secondary human rights. It is debatable whether it is justified to prioritize particular rights depending on their fundamental characteristics. The idea of indivisibility, which holds that all rights are interrelated and that none may be essentially superior to others, emerges as a major concept in today's debate on human rights [4]–[6].

The Idea of Elementary Rights

To emphasize the fundamental character of certain human rights, the idea of elementary rights also referred to as supra-positive rights is presented. These rights, which are independent of individual state or cultural acceptability, serve as the cornerstone of the world community's commitment to human rights. This section investigates how these rights have influenced the fundamental tenets of safeguarding human rights.

The United Nations Charter and Contemporary Implications

The reaffirmation of basic human rights in the United Nations Charter is studied in light of modern-day human rights viewpoints. This reaffirmation's historical foundations are acknowledged, but the debate also evaluates how current human rights legislation affects the choice of which rights are seen as basic [7]–[9].

CONCLUSION

In conclusion, the topic of "Classification and Significance of Human Rights: From Foundational to Contemporary Perspectives" emphasizes how intricately historical backdrop, cultural factors, and changing perceptions of the importance of human rights interact. In addition to providing a thorough examination of how the categorization of human rights has changed over time and continues to influence modern understandings, it sheds light on the continuous conflict between prioritizing and the indivisibility of human rights.A strong argument in favor of the claim that there is at least a minimum catalog of fundamental or elementary human rights is the fact that certain rights are specifically safeguarded and are intended to retain their full strength and validity, especially in serious emergency situations, in a number of comprehensive human rights instruments at the global and regional level. This claim may also be supported by other justifications.

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CHAPTER 4

SHAPING OF THE HUMAN RIGHTS DISCOURSE

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ABSTRACT:

The summary of "Intersection and Evolution of Civil, Political, and Economic Rights: Shaping Human Rights Discourse" provides a thorough analysis of the complex interrelationships between civil, political, and economic rights, significantly advancing the conceptual framework of human rights discourse. The goal of this debate is to shed light on the origins, categorization, and dynamic interaction of these rights in order to give a comprehensive understanding of their role in influencing the discourse on human rights. To do this, it will go across historical, philosophical, and legal aspects.

KEYWORDS:

Civil Rights, Global Perspectives,Historical Evolution, Indivisibility Rights, Political Rights.

INTRODUCTION

Recent international instruments that deal with the general promotion and protection of human rights either list all civil, political, economic, social, and cultural rights in one comprehensive list or deal with civil, political, and economic, social, and cultural rights separately. The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights, and the European Social Charter, as is evident from their respective titles, adopt the approach of two separate and distinct catalogues of rights. Examples of the former type of document include the Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man. The rights created to safeguard a person's liberty, security, and bodily and spiritual integrity come first among civil and political rights. These rights include the right to life, the right to be free from torture and other forms of cruel, inhuman, or degrading treatment or punishment, the right to be free from slavery and other forms of servitude, the right to liberty and security of person, including the right to a fair trial, the right to one's home and privacy, the right to freedom of speech, conscience, and religion, and the right to be treated equally by all people. Political rights encompass the freedoms of speech, assembly, and association as well as the right to participate in politics, including the ability to cast a ballot and hold elective office. The rights to work, including the right to just and favorable working conditions, trade union rights, social security rights, the right to adequate food, clothing, and housing, the right to an adequate standard of living, the right to health, the right to education, and rights related to culture and science are all included in the category of economic, social, and cultural rights.

The idea of human rights is very much a byproduct of human history and culture, and as such, it is open to development and modification. In reality, the notion of human rights began as a political idea, i.e., it signified respect for a field of freedom of the human being from the State, and it has gone through numerous phases of growth. In other words, the State was prohibited from interfering in this area of "civil rights" or "freedom rights" or, as was said in the preceding paragraph, the rights that seek to safeguard the freedom, security, and bodily and spiritual integrity of the human person. Most of these rights have an individualistic bent.

In the next stage, man is not pitted against the state; rather, he participates in the political organization of the society he is a part of. This is accomplished through using one's political rights inside the State. The concept of economic, social, and cultural rights emerging as a separate category of rights is a relatively recent development. These rights must be exercised via or in conjunction with the State. According to this theory, the State promotes and defends social and economic well-being. The modern state is (or should be) a tool for the benefit of all people within its jurisdiction in order to enable them to develop to the fullest their faculties, both individually and collectively, as opposed to earlier stages where the state was primarily an authority for the protection and maintenance of public order and security of society [1]–[3].

Since the public authorities are also obligated to protect civil and political rights from violations by power elements who may have significant economic, technological, and scientific potential, it is important to recognize that the state's expanded role in the area of human rights is relevant not only in relation to social rights but also with respect to the entire field of human rights. It is often argued that the distinction between "social rights" and "civil rights" is fading as a result of the State's altered role in the promotion and protection of human rights. This may very well be the case, but it should also be highlighted that when it comes to issues of human rights, the presence and personality of humans on both an individual and a group level should take precedence above how the State functions. A more reliable foundation for confronting the issue of how civil and political rights relate to economic, social, and cultural rights is perhaps the indivisibility or oneness of the human person in the physical, intellectual, and spiritual senses. There was great debate about whether there should be one or two covenants during the early stages of the International Covenants on Human Rights' development. The arguments put up in support of each proposal clearly illustrate the varied viewpoints on the relationship between civil and political rights and economic, social, and cultural rights, as well as vice versa.

The UN Secretary-General's annotations on the draft International Covenants on Human Rights text include these reasons, which will be highlighted below. People who supported creating a single covenant said that it was impossible to categorize human rights in a way that would accurately reflect a hierarchy of values. All rights must to be supported and safeguarded simultaneously. Without civil and political rights, economic, social, and cultural rights may only have a merely symbolic nature; without civil and political rights, economic, social, and cultural rights cannot be long-term guaranteed.

However, those who supported the creation of two distinct instruments said that although economic, social, and cultural rights were to be gradually implemented, civil and political rights were instantly relevant and could be enforced via the courts. They argued that, in general, economic, social, and cultural rights were those that the State would have to actively support, but civil and political rights were those of the person "against" the State, that is, against the State's illegal and unjust actions. Those who emphasized the distinctions between the two categories of rights also drew attention to the fact that economic, social, and cultural rights, which were "programmed" rights and could be best implemented through a system of periodic reports, required different means and methods of implementation than civil and political rights, which were "legal" rights and required different means and methods of implementation (specifically through complaints procedures). The General Assembly's declaration that "the enjoyment of civil and political freedoms and of economic, social, and cultural rights is interconnected and interdependent" and that "man does not represent the human person whom the Universal Declaration regards as the i" were widely agreed upon, even though it was ultimately decided to have two separate covenants. Notably, both

Covenants' third preambular paragraphs depict this notion of the free man in light of the connections and dependencies between the two groupings of rights. These sentences were written with the intention of highlighting the similarities between the two covenants while preserving their individuality, as noted in the Secretary-General's Annotations. In recent years, the unity of "civil rights" and "social rights" has received more attention than their different nature. It has been noted that the UN Charter indicates a universal understanding of human rights and places the promotion of universal respect for, and observance of, human rights and fundamental freedoms in relation to the goal of achieving "international cooperation in solving international problems of an economic, social, cultural, or humanitarian character" and in the context of international economic and social cooperation. Article 13 of the Teheran Proclamation, the provisions of which were officially adopted by the UN General Assembly in 1977, is another place where the concept of unity is expressed clearly. The Assembly decided in its resolution that the approach to future work within the UN system with respect to human rights issues should take into account the following principles:

1. All human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion, and protection of both civil and political, as well as economic, social, and cultural rights; and
2. "The full realization of all human rights and fundamental freedoms is a precondition for the full enjoyment of all other human rights and fundamental

Despite this trend of emphasizing unity, the European Convention on Human Rights, the International Covenants on Human Rights, and the European Social Charter all international documents that largely reflect Western conceptions of human rights highlight the distinctiveness of both categories of rights in terms of the general obligations of States. While under the Covenant on Civil and Political Rights each State Party undertakes, in accordance with the concept of "legal" rights or directly enforceable rights, from the time of ratification or accession, to respect and uphold the rights recognized in that Covenant for all individuals residing on its territory and subject to its jurisdiction, the States Parties to the Covenant on Economic, Social, and Cultural Rights, in accordance with the concept of "programmed" rights, undo the obligations set forth in the Covenant on Civil and Political Rights. The aforementioned regional European instruments distinguish between human rights with immediate application and those with a promotional purpose, and as a result, under the Convention and the Social Charter, respectively, the Contracting Parties are required to "secure to everyone within their jurisdiction the rights and freedoms defined" and "to accept as the aim of their policy, to be pursued by all appropriate means the attainment of conditions in which the following" Indeed, it would appear that a sizable body of authoritative opinion supports the notion that, on the basis of the pertinent international instruments, civil and political rights are to be respected and guaranteed as a matter of immediate obligation while economic, social, and cultural rights are rights of progressive realization.

It is important to avoid oversimplifying the difference between "social rights" and "civil rights" based on the idea of immediacy vs progressiveness. First off, the Covenant on Civil and Political Rights' implementation strategy at the national and international levels presupposes the possibility of these rights' gradual realization, which introduces on the national level "a certain degree of elasticity to the obligations imposed on the States by the covenant, since all States would not be in a position immediately to take the necessary legislative or other measures for the implementation of its provisions.

" The Covenant on Civil and Political Rights' international implementation system is based on the same principle because reporting is the only required method of implementation. States Parties are required by article 40 to report, among other things, on the progress (again, the idea of progress) made in the enjoyment of the rights guaranteed by the Covenant.

A number of rights mentioned in each of the International Covenants may be categorized as being beyond the legitimate scope of each covenant, apart from these broad signals that tend to confuse the distinction between "civil rights" and "social rights." Article 23, paragraph 4, of the Covenant on Civil and Political Rights, which states that States Parties shall take appropriate measures to ensure equal rights and obligations of spouses before marriage, during marriage, and at its dissolution, and article 24, paragraph 1, which states that every child shall have the right to measures of protection on the part of his family, society, and the State, are promotional provisions rather than rules that must be followed immediately24.

The Covenant on Economic, Social, and Cultural Rights, however, has a number of clauses that may be put into effect right away. Among them, the freedom of parents to choose a school for their children other than those established by the public authorities, the rule that marriage must be entered into with the free consent of the intended spouses, the prohibition of employing children in hazardous jobs, and the obligation to respect the freedom necessary for scientific research and creativity can be mentioned.

The trade union rights are the finest example of the "double" or "mixed" character of certain rights. Insofar as they are necessary for the advancement and defense of economic and social interests, such as the right to work and the enjoyment of just and favorable working conditions, the right to an adequate standard of living, the right to rest and leisure, etc., these rights undoubtedly have an economic and social component. In this regard, documents aimed at achieving economic and social rights, such as the International Covenant on Economic, Social, and Cultural Rights and the European Social Charter, appropriately contain the freedom to establish and join the trade union of one's choice.

Conversely, the International Covenant on Civil and Political Rights, the European Convention on Human Rights, and the American Convention on Human Rights all recognize trade union rights as a subset of the right to freedom of peaceful assembly and association. In reality, the IL0 has often highlighted how important it is for fundamental civil rights to be respected in order for trade union freedoms to be exercised [4]–[6].

The conclusion that the distinction between "civil rights" and "social rights" is not a clear-cut one but rather a matter of gradation is acceptable in light of the aforementioned paragraphs. The implementation of "social rights" is heavily reliant on the utilization of resources that are already available as well as the adoption of certain structural and institutional reforms. "Their effective transformation into directly applicable and enforceable legal rights may require time," the UN Secretary-General has said.

This remark argues that social rights ideas found in legal documents may be given tangible shape and eventually transformed into rights that can be adjudicated in court. It's noteworthy to note that the concept of gradually transforming social justice concepts into legally binding rights is also well-supported in the civil rights arena, especially in developing nations.

The following quote reflects the opinions of many representatives: "The governments of some developing nations also concerned that their genuine struggles to immediately secure some of the rights recognized in the Covenant may be interpreted as ill intent. However, as these challenges progressively vanished, a growing number of States Parties would undoubtedly embrace the optional clause and fully implement the Covenant's implementation

mechanism. Globally speaking, the idea of incremental advancements seems to rule the whole field of human rights, with no clear line being drawn between "civil rights" and "social rights." It is still unclear whether history and the current state of affairs in the world can support the idea of gradual progress and advancement in any situation, and whether deterioration in political, economic, and social conditions does not periodically occur or pose a threat to basic human rights and quality of life. The concept of human rights—again, this would apply to civil and political rights as well as to economic, social, and cultural rights—is therefore even more crucial in order to preserve human values, particularly freedom from fear and want for every person and for the entire community in which he or she lives. In such unfavorable circumstances, respect for the dignity and worth of the human person tends to diminish.

DISCUSSION

Historical Context and Rights Classification

This abstract starts out by exploring the historical background that led to the division of human rights into the three separate categories of civil, political, and economic rights. It is clear from examining the development of international documents like the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights that these rights have been categorized as a result of complex socio-political dynamics and changing international perceptions.

Tracing the Evolution of Human Rights

The story continues by tracing the evolution of human rights, shedding light on the underlying motives and historical occurrences that influenced this categorization. The discussion demonstrates how these rights are frequently conceived of as defending various aspects of human dignity and welfare, with economic rights emphasizing socioeconomic well-being and equitable access to resources and civil and political rights concentrating on individual liberties and political participation.

The Basic Function of Civil and Political Rights

The abstract explores the importance of civil and political rights in the context of human rights. These freedoms, which include essential elements like the right to life, the right to a fair trial, and the freedom of speech, are presented as the first pillars that entrench individual liberties. These rights, which are fundamental to upholding human dignity, have traditionally stood for the struggle against governmental tyranny and opened the way for more comprehensive human rights concerns.

Emerging Dimensions of Economic, Social, and Cultural Rights

By looking at how economic, social, and cultural rights have developed as a distinct category, the abstract sheds light on how the state's role has changed from one of only protecting to one of promoting society wellbeing. This change highlights the need of providing fair access to basic necessities, healthcare, education, and social security and indicates a paradigm shift in debates on human rights [7]–[9].

CONCLUSION

When the International Covenant on Civil and Political Rights' implementation mechanisms were addressed during the General Assembly's twenty-first session, this way of thinking was made quite evident. The summary of "Intersection and Evolution of Civil, Political, and Economic Rights: Shaping Human Rights Discourse" provides a clear and thorough

examination of the complex interactions that exist within the field of human rights. This abstract offers a detailed grasp of the crucial role these rights play in forming the discourse on human rights by tracing the historical trajectory, contextualizing the classification of rights, and exploring their interdependence.

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CHAPTER 5

AN EXPLORATION OF INDIVIDUAL AND COLLECTIVE RIGHTS

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ABSTRACT:

The summary of "Balancing Individual and Collective Rights: Navigating the Complex Landscape of Human Rights" provides a thorough analysis of the complex interaction between individual and collective rights in the context of human rights discourse. This conversation explores the complicated interaction between the rights of individuals and those of groups or communities, illuminating the nuances, factors, and shifting viewpoints that influence this precarious balance.

KEYWORDS:

Balancing, Collective Rights, Equilibrium, Individual Rights, Multidimensional Perspective Rights Interplay.

INTRODUCTION

Another difference that shouldn't be taken too categorically is that between an individual's rights and the rights of a group or community. After all, as stated in article 29 of the Universal Declaration, an individual can only completely develop his individuality within the society. It is not appropriate to interpret the contrast between collective rights and individual rights as a counter distinction. This does not lessen the reality that certain rights, like the right to privacy, the freedom of speech and religion, and the right to personal liberty and security, are individualistic in character, whilst other rights, like the majority of economic and social rights, are by their very nature communal. Additionally, there are rights that include both individual and social components. Examples include freedom of speech and freedom of religion.

But there is no denying that the Universal Declaration of Human Rights places a strong emphasis on the uniqueness of each person. The International Covenants on Human Rights are mostly similar in this regard. The majority of the Universal Declaration's clauses start with the phrase "everyone has a right."In actuality, the Universal Declaration elevates the individual and his individuality in both the domestic and global spheres. The fundamental tenet is that each individual should be given an equal opportunity to fully express his or her self while taking into account the rights of others and the welfare of the society as a whole. regard for the individual person derives from regard for the distinctive and varied character of every human being. This suggests a high level of tolerance in a pluralistic society. Furthermore, it would seem that such a libertarian perspective on human rights takes into consideration the innovative function of the nonconformist in society [1]–[3].

The right of petition expresses the individual's right of recourse at the national level and, in light of a number of newly developed processes, at the international level. The petitioning right represents the personal nature of the human rights idea. The social functioning or social interactions of the person must not be disregarded before consideration is given to the rights of groups or collectivities. The Universal Declaration's declares, among other things, that "all human beings. should act towards one another in a spirit of brotherhood." This is one of the French Revolution's three main tenets. Articles 28 and 29 of the Universal Declaration and

the fifth preambular paragraph of the International Covenants on Human Rights both place the social structure and the society to which the person belongs in a legitimate human rights context. In actuality, the whole "International Bill of Human Rights" positions the human being in a variety of social connections in which he or she is an essential participant, such as their family, their religious group, their place of work, and the local, national, and worldwide order. In this way, the promotion and defense of human rights recognizes and gives voice to human existence in all of its many social interactions. As opposed to the rights of the individual as a distinct human being or as a member of different social connections, which were the focus of the previous paragraphs, this paragraph will focus on the rights of groups or collectivities. No attempt will be made to define a "group" or "collectivity," but for the purposes of distinguishing between individual rights and group rights, a group should be understood as a collectivity of people who has unique and distinguishing characteristics and/or who finds itself in particular circumstances or situations. These unique traits might be racial, ethnological, national language, or religious in origin. Politics, economy, society, or culture may all have a role in determining the particular circumstances or conditions. International human rights law aims to either protect or preserve the characteristics of the group or try to bring about change in those situations or conditions affecting the group that are intolerable under recognized international human rights standards. It takes into account these characteristics, which are inherent in a group, or the situations or conditions, which are of an accidental nature. This includes not only entire peoples or minorities whose right to self-determination is in jeopardy, but also social and economic groups that are living below the poverty line and those who experience flagrant and widespread human rights violations, including discrimination. The rights of minorities with a view to conserving and developing their features as well as the right of peoples to self-determination, which includes the freedom to choose their political status and the freedom to pursue their economic, social, and cultural development, are collective rights par excellence. A complex structure for the protection of minorities existed under the League of Nations, putting duties on a number of nations that had fought in the First World War on the side of Germany. The minority' declarations and treaties included the following four components:

i) The notions of equality or nondiscrimination;
ii) The protection of fundamental human rights;
iii) In particular, the guarantee of the right to freedom of expression and the preservation of specific institutions for minorities;
iv) The guarantee of general or particular autonomy or of traditional rights. The two latter categories were either formulated as rights of persons belonging to minorities or as rights of the minorities themselves, and
v) As such collective rights, whereas the first two categories of rights were of an individual nature and were to be guaranteed to all inhabitants and all citizens of the countries in question. Minority protection never managed to gain any prominence under the United Nations.

The United Nations was founded with an individual rights-focused philosophy and worldview. A lot of emphasis has been placed on collective rights rather than individual rights, particularly the right of peoples to self-determination, the right of underprivileged peoples and groups of people to a fair and equitable share of the world's resources, the right of racially discriminated groups to equality before the law, and other rights as a result of the Third World countries' growing influence in the UN, which received strong support in this matter from the East European countries. It is noteworthy to notice that the right of all people to self-determination is outlined in the first article of both International Covenants on Human Rights.

This right entitles all individuals to "freely determine their political status and freely pursue their economic, social, and cultural development." The economic equivalent of this right, namely the issue of ongoing sovereignty over natural resources, is covered in the second paragraph of the same article. It states: "All peoples may freely dispose of their natural riches and resources for their own objectives, without regard to any duties emerging from international economic cooperation, based on the principle of mutual benefit and international law. According to this school of thought, the right to self-determination was the most essential one. The whole UN decolonization effort has been greatly influenced by the right to self-determination.

This decolonization effort benefited greatly from the Declaration on the Granting of Independence to Colonial Countries and Peoples and the mechanisms for its implementation. In more persuasive and conclusive language than article 1 of the Covenants, this Declaration states unequivocally that "the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights" and affirms the relevance of the right to self-determination for the enjoyment of other fundamental human rights and freedoms. In his preliminary analysis of challenges pertaining to the achievement of economic and social rights, the UN Secretary-General noted that these rights are by definition collective rights. The foundation for the efforts to achieve a more just and equitable global economic and social order is laid out in Articles 55 and 56 of the UN Charter, which contain a pledge by the members of the UN to take joint and separate action to promote higher standards of living, full employment, and conditions of economic and social progress and development, along with the similar pledge to promote universal respect for, and observance of, human rights and fundamental freedoms for all.

The UN Secretary-General's 1979 report on "the international dimensions of the right to development" is noteworthy in this respect. "Enjoying the right to development necessarily involves a careful balancing between the interests of the collectivity on the one hand, and those of the individual on the other," the study adds. However, it would be incorrect to assume that the right to development is only necessary attached at one level or the other. In fact, there doesn't appear to be any reason to presume that the interests of the individual and the collective will always be at odds. The efforts of the collectivity to pursue its right to development will be strengthened rather than weakened by a healthy regard for the individual's right to pursue his or her self-realization, demonstrated by respect for this right within collective decision-making procedures that permit the full participation of the individual. Additionally, only via the fulfillment of communal conditions can an individual's growth and fulfillment be realized [4]–[6].

The General Assembly stressed in 1979 that equality of opportunity for development is a prerogative of both states and of persons within nations, and that the right to development is a human right. The Teheran Proclamation of 1968 was an important turning point in the evolution of the movement toward a collectivist attitude to human rights. The Proclamation makes numerous references to egregious and widespread violations of human rights, particularly under apartheid and other racial discrimination policies and practices, as a result of colonialism, as a result of aggression or any armed conflict, as well as a result of discrimination based on race, religion, belief, or expressions of opinion. It also discusses other pressing issues such widespread illiteracy and discrimination against women, as well as the rising economic divide between wealthy and developing nations as a barrier to the world community's implementation of human rights. The declaration really represents the strategy now used to link human rights to today's urgent and significant global political and economic concerns, calling to light widespread violations of human rights.

In contrast to the 1948 Universal Declaration of Human Rights, which places the person at the center of a range of social interactions, the Teheran Declaration places a strong emphasis on the collective as the primary victim of human rights violations. This shift from an individualist to a collectivist perspective on human rights has occurred during the last 20 years, at least on a worldwide scale.

DISCUSSION

Individuality within Collectiveness

This section explores the nuanced differences between individual and collective rights, demonstrating that these rights are not always absolutely binary. It presents the idea that, as stated in Article 29 of the Universal Declaration, a person's development is inextricably linked to that of society. Instead of being presented as an absolute divide, the disparity between community and individual rights is shown as a multidimensional continuum.

Individual and Collective Rights

In order to reframe the discrepancy as a dynamic cohabitation rather than a harsh opposition, the story explores the symbiotic link between individual and communal rights. While certain rights, like the freedom of expression or the right to privacy, are intrinsically individualistic, many economic and social rights are by their very nature collective. The concept acknowledges that civil liberties like freedom of expression and religion cover both personal and communal spheres.

Raising the Individual: Legal and Historical Perspectives

The acknowledgement of the Universal Declaration's focus on each person's individual value lies at the heart of the abstract. The term "everyone has a right" is used in almost every sentence of the International Covenants on Human Rights, which are a reflection of this idea. The debate emphasizes how the Declaration and the Covenants promote the value of the person both locally and internationally, aiming for a balance where people may thrive while upholding the rights of others and promoting social welfare.

Social framework and Nonconformist Innovation

The abstract makes the argument that a tolerant and pluralistic society results from the acknowledgement of individual rights in a social framework. This viewpoint takes into account the nonconformist's contribution to variety and creativity within the social fabric. The function of the petition right in this situation is investigated, emphasizing how it represents individual remedy at both the national and international levels.

How Group and Collective Rights Interact

The story then shifts to the relationship between group and collective rights, highlighting how the protection of human rights applies to a variety of socialites, including family, religious organizations, workplaces, and the international system. This interaction confirms the complex link between the unique person and numerous social situations, ultimately leading to a full understanding of human life [7]–[9].

CONCLUSION

People must never be denied their own methods of surviving. One of the criticisms leveled at this article was that a collective right of this kind had no place in a treaty on human rights, especially given how nebulous the term "people" was. The collective right, on the other hand, was said to belong to all peoples and that if it were rejected, no people, much less its

individual members, were free. This concludes that for navigating the Complex Landscape of Human Rights" provides an in-depth analysis of the complex interaction between individual and collective rights. This abstract gives a multifaceted view on human rights discourse by acknowledging the ambiguous continuum between these rights, emphasizing the focus on individual worth, and addressing the complex dynamics of social circumstances. It emphasizes the need of establishing a balance between individual liberty and social harmony, therefore advancing a comprehensive knowledge of human rights within intricate social structures.

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CHAPTER 6

AN OVERVIEW OF SELF-DETERMINATION, EQUALITY AND NON-DISCRIMINATION

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ABSTRACT:

The summary of "Key Concepts in Human Rights: Equality, Non-Discrimination, and Self-Determination" gives a thorough review of these three crucial ideas. The importance of equality, non-discrimination, and self-determination in laying the groundwork for human rights concepts is examined in depth in this investigation. Each of these ideas is crucial in determining the extent and limitations of human rights safeguards. The interconnection of these ideas and their importance in advancing social justice, human dignity, and fair treatment for all people are highlighted in the abstract. This abstract provides insights into the intricacies and issues connected with these essential ideas, giving light on their basic relevance in the discourse around human rights via a consideration of historical trends, legal systems, and current disputes.

KEYWORDS:

Equal Protection,Human Rights, Non-Discrimination, Self-Determination, Social Justice, Universal Principles.

INTRODUCTION

This chapter will cover three key ideas that are crucial to the defense of human rights. Each one's significance is distinct from that of the others. Human equality before the law is without a doubt one of the most significant human rights, and it may be seen as basic in the sense that it serves as the foundation for the creation of guarantees of particular human rights. As long as equality before the law is guaranteed generally, it makes no difference whether specific guarantees for equal protection by courts, equal pay for equal work, equal access to professions, to other economic activities, or to the civil service, or the right of equal participation in the political process by voting or otherwise, are expressly contained in a catalogue of human rights. Such assurances may be created by courts and other state authorities from the fundamental norm. In this sense, equality serves as a foundation for a larger number of particular human rights, some of which may eventually find their way into the catalog but which would also be enforced by courts in the event that it wasn’t. Only the right to the free development of one's personality has a purpose similar to the promise of equality before the law. It is a flexible right that may serve as the foundation for several additional rights. The non-discrimination concept has a very distinct nature. However significant this idea may be, it does not constitute a distinct human right; rather, it is only a consequence to the right to equal protection under the law.

This framework broadens the applicability of the fundamental rule while excluding the use of certain criteria. The concept of non-discrimination forbids a distinction in certain ways if equality before the law is interpreted as the rule that equal facts should be handled similarly and unequal facts may be treated in accordance with the unique circumstances of the case. For instance, while they may be seen as acceptable criteria under the concept of equality before the law, differences based on race, color, sex, language, religion, political or other

viewpoint, national or social origin, property, birth, or other status are not permitted. Therefore, without adding a new human right to the list, it may be claimed that the principle of non-discrimination dictates the context in which equality is applied. Self-determination has more challenges than the other two concepts combined: Is the idea of self-determination as such a human right, or as is usually claimed is it maybe the precondition for all human rights? The first theory that the right to self-determination is a human right is only accurate if the principle is also a legally-binding right in the sense that the doctrine of the sources of international law gives to this idea. Additionally, the issue of whether it is a human right is brought up. According to the views of knowledgeable academics as well as the policies of States and international organizations, both topics are debatable. Only after taking into account what "self-determination" now means and how its definition has evolved can these concerns be addressed [1]–[3].

Self-Determination

1. Using a Wilsonian perspective Without mentioning earlier accomplishments or how philosophers and politicians first proposed it until the 19th century, it may be said that this theory became widely recognized during the First World War. On January 8, 1918, American President Wilson outlined fourteen proposals as a possible framework for peace. Among other things, he highlighted the idea "that in all such questions of sovereignty, the interests of the populations concerned must have equal weight with the equitable claims of the government whose title is to be determined." He later provided a clearer definition of this idea, stating that "no government or group of governments has the right to dispose of the territory or to choose the political allegiance of any free people." Many countries in Central and Eastern Europe obtained independence as a result of the application of this concept, and the League of Nations' Mandate System was extended to include significant portions of the Ottoman Empire and the former German possessions. Similar supervision over the colonial empires of the Allied and Associated nations themselves, however, was not created. The preservation of ethnic minorities was carefully considered in the peace accords. Plebiscites, which were conducted in various regions to determine the ethnological and economic foundation of the claims of the residents, were one of the primary techniques used to put the theory into practice. This "central principle" has undoubtedly not been used in all situations and has instead been implemented according to political expediency while taking strategic, economic, and other political factors into account.

   It was not seen as a legally enforceable right, but rather as a simple political ideal that may or might not be implemented depending on the circumstances. However, the link between self-determination as it was then understood and the ideals of political independence and territorial integrity was once again expressly stated in President Wilson's draft of the Covenant: self-determination may, in certain circumstances, triumph. The notion, which is stated in general terms, mostly pertains to ethnic minorities coexisting in a specific region inside an already-existing state or empire. "The Contracting Parties unite in guaranteeing to each other political independence and territorial integrity but it is understood between them that such territorial adjustments, if any, as may in the future become necessary due to changes in present racial and political relationships, pursuant to the principle of self-determination, and also such territorial adjustments as may in the judgment of the Contracting Parties," according to Art Wilson's draft of the Covenant of the League of Nations.

The Contracting Powers agree without reservation that any issue involving political jurisdiction or border is of secondary significance to maintaining international peace. The final draft did not include this clause, and there was no explicit reference of self-determination in the League of Nations Covenant. However, the concept ruled history in the years between the two World Wars. It is necessary to bring up the instance of Bohemia, where the majority of the population was subjected to a gross breach of the same principle after a significant ethnic minority was denied self-determination. "Self-determination" was seen as a political ideal that extended to all "peoples" without difference between the two World Wars.

The term was used to describe the following: - "peoples" living solely as minority (or even majority) groups within a state ruled by another "people" (such as the Irish before 1919 and the Mongols before 1911/1921); - "peoples" living as minority groups in multiple states without having their own statehood (such as Poles in Russia, Austria, and Germany before 1919); - "peoples" living as minority groups in a state but understanding themselves as a part of the people of In each of the five situations, it was necessary for the various "peoples" to relocate to areas of the nation where they at least made up the majority of the population. The term "peoples" was not used to describe immigrant groups that were distributed across the nation, such as Blacks and non-English speaking Europeans in the United States of America. The notion was put into practice in a variety of ways, including regional autonomy, statehood within a federal state or within a commonwealth of states, international protection of minorities, and lastly, national independence.

2. In the Atlantic Charter of August 14, 1941, two key components of self-determination were underlined throughout World War II. Second, they oppose any geographical changes that do not reflect the peoples' freely stated preferences. Thirdly, they support the right of every people to choose the kind of government they will live under and want to see those who have been forcefully dispossessed of their sovereign rights and self-governance given them back. The issue of whether the section of the United Nations Charter that defines the organization's aims should not be regarded with the same meaning as this language, which was still written in the spirit of the pre-war era, may be questioned. These goals include fostering amicable relations between countries based on respect for the idea of equal rights and peoples' right to self-determination. Here, the word "principle" is used alone to refer to both the principles of equal rights and self-determination, but the phrase "respect for human rights and for fundamental freedoms" is only used in the sentence after this one. A renowned early Charter critic came to the unusual combination that "self-determination of peoples" is where the values of sovereignty and equality are blended in a murky fashion into one principle: that of "sovereign equality.

3. Other writers have not adopted this peculiar inversion of the idea of self-determination's conventional connotation. When it was released, Kelsen's viewpoint seemed singular. His perspective does not seem to accurately represent the fundamental changes that have occurred until thirty years later in hindsight. It has been aptly said that this transition from the first phase, after which self-determination has attained a significant degree of acceptability, to the second era, after the Second World War, has occurred: Wilson "declared the right in universal terms, but for practical reasons he focused on the European territorial settlement after the war." The peoples concerned at this time "were ethnic groups, countries or ethnicities principally characterized by language and culture.

4. The second (era) has been dominated by the collapse of the foreign empires, which were mostly unaffected by Wilson's self-determination in the first. Ethnicity is largely immaterial in the current decolonization phase; instead, the presence of a political entity masquerading as a colonial territory is the deciding factor, and often the only one. This process got underway not long after UN bodies started working to preserve human rights internationally, and it drew strong opposition from those who still believed in Woodrow Wilson's theories.

   The new doctrine did away with the idea that groups formed as "peoples" based on political consciousness but living under foreign rule had the right to demand self-determination, that this principle applied to everyone, and that the right to self-determination could be satisfied in a number of ways, including granting a certain amount of cultural or political autonomy within the State, integrating into or associating with a State, or seceding to form a new State. Only colonially ruled regions will have the ability to exercise their right to self-determination, which entails becoming an independent state, according to the new notion. It makes no difference what ethnic makeup such a territory's people have. As soon as a country achieves independent statehood, its geographical integrity is safeguarded against any effort to shatter its unity as a whole or in part, even by one ethnic minority, which would then be subject to foreign rule. It is also possible to exercise this new right to self-determination with the use of force and with the aid of other authorities.

5. The Decolonization Declaration of 1960 the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the UN General Assembly in Resolution 1514 (XV) on December 14, 1960, enumerates these principles and makes an effort to connect the development of the human rights movement with the right to self-determination. The preamble already establishes a strong link between the principles of self-determination and respect for human rights, and the operative part of the declaration that "the subjection of peoples to alien subjugation, domination and exploitation (i.e., the denial of self-determination) constitutes a denial of fundamental human rights" does the same. Even though it is emphasized that "all peoples have the right to self-determination," the preamble, which mentions the desire to end colonization at least four times, has the effect of making self-determination only a legal principle insofar as it is asserted by peoples who are subject to colonial rule. Immediate action must be done to transfer all authority to the people of Trust and Non-Self-Governing Territories so they may live in total freedom and independence. According to the following clause in subparagraph 6, "any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country" is forbidden with respect to certain regions.
6. No effort was made in this Declaration of 1960 to reconcile the seeming conflict between the promise of national unity and the proclaimed right to secede. The theory that "the territory of a colony or other non-self-governing territory has, under the Charter, a status separate and distinct from the territory of the State administering it" was developed only ten years later, in the "Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations." According to this supposition, the guarantee of national unity only applies to a certain colonial entity. Both Declarations were written as authoritative interpretations of the Charter rather than as changes to it. This seems to be a political fundamental of self-determination that the General Assembly's resolutions cannot alter. The General Assembly created special groups to further the decolonization process.

The first was a committee on information on non-self-governing areas, followed by the Special Committee of 24 members (now 25). These supporting bodies are tasked with more than just monitoring non-self-governing nations' situations and reporting back to the General Assembly. According to the Declaration on the Granting of Independence, which grants these movements exclusive rights, a significant portion of their work consists in encouraging and influencing liberation movements.

7. These Committees hear petitions from the residents of these areas so that they are not restricted to the sources of information offered by the governing States. To the greatest extent practicable, they tend to apply a kind of control akin to the worldwide Trusteeship System outlined in Chapters XII and XIII (articles 75–92) of the Charter. The practice that has been in place for a number of years must be taken into consideration while assessing the legal impact of the aforementioned Declarations. Those who consider the practice in this area while determining the significance and substance of the relevant legal requirements must concede that a significant development has occurred in this area.

The legal character of the original principle has changed, but only to the extent that this new practice can be applied, as a result of the establishment of a procedure within the UN Organization in favor of specific beneficiaries of the right to self-determination and the definition of the content of this right.This would have the effect of creating a legal right to anti-colonial self-determination, which would only apply to a tiny portion of the global population (from 130 million in 1961 to barely 3 million in 1981). However, the practice established in favor of these benefactors has no bearing on other peoples who are subject to foreign rule. The legal position under the Charter continues to apply to them. The Charter's concept of self-determination is still applicable to them; however, it does not provide them the right to secede or complete independence. Instead, its implementation may rely on political expediency and other factors.

8. Human Rights Covenants The right to self-determination is guaranteed in both the International Covenants on Human Rights' common article 1 without specifying its beneficiaries or scope, nor outlining a process for achieving it. Despite the Covenants entering into effect in 1976, nothing has been clarified.The following inquiries must get an answer: Can the right to self-determination be considered a "human right" in the strictest sense, and how can the relationships between these two concepts be defined in other words?

There is no doubt that both ideologies share a great deal in common. Both stem from the French Revolution, when ideas like human dignity, popular sovereignty, and active citizen participation in politics were developed in opposition to ideas like the omnipotent state, princely sovereignty, and the submissive role of the obedient subject. The preservation of human rights provides a personal sphere of activity to the citizen who stays inside the State's borders and, in this manner, enables him or her to live in freedom and dignity in his or her State. Both concepts place constraints on the powers of the State, but in different ways. Therefore, this protection might be seen as making a good contribution to the relationship between people and the government.

On the other hand, if a group of former citizens secedes, the concept of self-determination has a negative aspect in interactions between the entities involved. A negative aspect arises whenever an ethnic group gets any autonomy, whether as a State in a Federation or even as a self-managed unit in a decentralized Unitarian State. The primary distinction, however, is that each person is responsible for their own preservation of human rights.

A group is always the object of the self-determination principle since that group can only exercise its powers, rights, or opportunities as a whole. There has been a claim made those certain human rights, such the freedom of association and the right to join a union, can only be practiced collectively.

Although these rights do have a collective component, there is also an individual component in each of these situations: the choice to join the group or the union. Rarely does the exercise of self-determination have such a personal aspect, with the possible exception of choosing whether or not to take part in a potential plebiscite. This weak individual component is undoubtedly there in the previous Wilsonian idea of self-determination, and it seems much weaker in the new version. In spite of the fact that it was incorporated into the two Covenants of the United Nations against the will of certain Member states, the concept of self-determination cannot be viewed as a "human right" for all of the aforementioned reasons. How can the connection between these two concepts be accurately defined? The phrase "self-determination is a prerequisite of the effective exercise of all human rights" is used often in General Assembly resolutions. When a formula is utilized as a political premise, it instantly draws criticism.

If freedom of speech, freedom of religion, together with freedom of assembly and of association, are upheld, the temptation to leave a multinational or multiracial State is undoubtedly less strong, and the possibility of integrating the minority group into the nation is increased, respect for human rights can satisfy the desires of those who wish to use the principle of self-determination. On the other hand, the principle of self-determination can only be fully implemented by granting an autonomous group certain privilege, such as the right to use their own language in government and publicly funded institutions of higher learning as well as some preferential treatment in election laws, to name a few. Perhaps the best way to describe the relationship between the two principles is to say that respect for one is necessary in order to have respect for the other.

DISCUSSION

The significant relevance of the three guiding principles that form the foundation of human rights. These ideas—equality, nondiscrimination, and self-determination—act as pillars in the development of the duties, values, and safeguards that underpin human rights discourse. The belief that all people are naturally equal and should get the same treatment, respect, and opportunity is embodied by the principle of equality, which is a foundational tenant of human rights. The idea of equality goes beyond statutory equality to include substantive equality, which seeks to level the playing field for underrepresented groups and overcomes past obstacles. It is clear that the equality principle is crucial for eliminating discrimination and ensuring that everyone has equal access to their rights [4]–[6].

The principle of non-discrimination, which forbids treating people unjustly or differently on the basis of certain characteristics, such as race, gender, religion, or socioeconomic rank, is closely related to the idea of equality. The larger commitment to equality includes the ideal of non-discrimination, which is also one of its results. It is a notion that transcends human rights and improves the enjoyment of all other rights in addition to being a human right in and of itself. To combat prejudices and structural inequities that still exist in cultures across the globe, proactive actions are needed.

The concept of "self-determination" involves the right of people and groups to choose their own political, economic, social, and cultural fate. Decolonization gave rise to the significance of this notion, which is still valid today, especially in the context of indigenous rights and fights for autonomy.

Self-determination, while often linked to nation-states seeking independence, also refers to a minority group's right to maintain its cultural identity and take part in activities that have an impact on it. Self-determination and human rights have a complicated connection since there are concerns about how broadly it should be applied and possible conflicts with territorial integrity and sovereignty [7], [8].

CONCLUSION

The analysis of the Equality, Non-Discrimination, and Self-Determination" highlights the fundamental relevance of these tenets in establishing the framework of human rights discourse. The establishment, defense, and fulfillment of basic rights for people and groups across the globe are based on the principles of equality, non-discrimination, and self-determination. These ideas emphasize the intrinsic worth of every person, irrespective of their origins, identities, or traits. The concept that every individual has inherent value that calls for respect and fair treatment, regardless of social prejudices or historical imbalances, is enshrined in the principle of equality. Non-discrimination supports this objective by forbidding unfair treatment of people based on certain characteristics, promoting inclusion, and removing obstacles that prevent the exercise of human rights.

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CHAPTER 7

ORIGINS OF INTERNATIONAL HUMAN RIGHTS LEGISLATION

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ABSTRACT:

The major ideas in the work are succinctly summarized in the abstract. Since the material you've supplied is fairly long, that encapsulates the main ideas. Since World War II, the emergence of global human rights law has been a dynamic process with significant effects on international law. Regional intergovernmental organizations like the Organization of American States and the Council of Europe, as well as international organizations like the United Nations and its Specialized Agencies, are important participants. The creation of notable instruments like the Universal Declaration of Human Rights and universal covenants, along with regional documents like the European Convention on Human Rights and the American Convention on Human Rights, was motivated by the desire to create a comprehensive framework for the protection of human rights. In response to urgent global concerns, these instruments have helped to create a comprehensive body of legislation that covers both general and particular human rights. A coherent and dynamic framework for the promotion and defense of human rights on a worldwide scale is formed by the interconnected sources of international human rights legislation, which include conventions, declarations, and customary practices.

KEYWORDS:

Evolution, Influence, Origins, World War II, International Covenants, Regional Human Rights Systems.

INTRODUCTION

International human rights legislation has been evolving in a previously unheard-of manner since the Second World War and has now significantly contributed to the body of international law. The key players in this regard have been international organizations whose mission is to further the welfare of people (both groups and individuals) or certain categories of people. Of course, the United Nations is quite prominent, but its Specialized Agencies, particularly the ILO and UNESCO, also deserve praise. International human rights legislation has also been profoundly influenced by regional intergovernmental bodies like the Organization of American States and the Council of Europe. The composition and character of the human rights instruments developed by these organizations are significantly influenced by their membership, political environment, and specific areas of expertise [1]–[3].

The goal to create a comprehensive framework for the promotion and protection of human rights has served as one of the driving forces behind the creation of positive international human rights legislation. In order to create a universal bill of rights, the UN Commission on Human Rights was given a mandate in 1946. This mandate finally resulted in the ratification of the Universal Declaration of Human Rights in 1948 and the universal Covenants in 1966. At the regional level, other comprehensive documents that cover a wide range of human rights have been developed.

These include the European Social Charter of 1961, the American Declaration of the Rights and Duties of Man of 1948, the American Convention on Human Rights of 1969, and the European Convention on Human Rights of 1950 with its Five Protocols. It should be noted that a number of distinct and specific human rights instruments may be regarded as forming, collectively, a thorough and consistent body of law and coming close to the idea of one general instrument insofar as they are interconnected and subject to a unified implementation system. A good example is the IL0's recommendations and international conventions.

They together form what is regarded as a corpus jutis of social justice. The alternative strategy, which is often used to create effective international human rights legislation, entails the development of human rights instruments with a more specialized or constrained scope. As shown by specialized international instruments aimed at the protection of refugees, stateless people, migrant workers, children, handicapped people, etc., some groups of people may require special care. To define and protect certain rights, such as the right to education and the right to freedom of association, in greater detail, specific instruments may also be created. Other targeted instruments attempt to eradicate or prevent a particular kind of discrimination, such as racial or sexual discrimination, and do so in connection to the whole area of human rights.

These treaties include the International Convention on the Elimination of All Forms of Racial Discrimination, the UN Declaration on the Elimination of All Forms of Discrimination Against Women, and the Declaration on the Elimination of Discrimination Against Women. In order to ensure the practice of a specific human right without discrimination based on race, color, sex, language, religion, political opinion, national or social origin, or economic status, non-discrimination instruments may also be focused on that particular human right. Relevant examples are the UNESCO Convention against Discrimination in Education and the IL0 Convention Concerning Discrimination in Respect of Employment and Occupation. Specific human rights instruments may come from the activity of organizations or agencies with competence or responsibility in a particular field, as opposed to general human rights instruments, which are the product of a thorough and systematic approach and represent a human rights concern in the broadest sense.

These particular tools may also serve as a response to pressing, widely felt political or social issues. A widespread practice of including human rights standards in declarations or resolutions has emerged, notably at the UN, to address urgent demands of significant portions of the worldwide community. Depending on the situation and context, these instruments may also prove to be significant sources of international human rights legislation. Some of these tools have grown to be quite significant and may have greater effect than customs. Examples include the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Universal Declaration of Human Rights. It is essentially difficult to explain positive international human rights legislation today on the basis of a distinction between conventional instruments and other instruments, such as declarations, since law-making is now a communal endeavor in international organizations. The sentences that follow do not aim to cover all of substantive human rights legislation.

They are meant to provide as a general overview of the origins of international human rights legislation. In this regard, emphasis will be placed on general and particular instruments created in the form of conventions or declarations, as well as a short discussion of other sources of human rights legislation such customary law, general legal principles, and judgments made by international bodies. It should be remembered that these different sources are not always reliable and belong to distinct groups.

They often have cumulative effects. The Universal Declaration of Human Rights, which as a declaration may not be binding in the same sense as a treaty or convention, contains a significant amount of law that is generally acknowledged as binding upon members of the international community. This accumulation of sources can be found in relation to the declaration. A lot of the freedoms and rights expressed in the Universal Declaration have also been incorporated into treaty law by subsequent international agreements.

The United Nations Charter is the fundamental document providing the framework for international human rights legislation. The many UN Charter human rights provisions all refer to "promoting and encouraging respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language, or religion." Article 56, which contains a "pledge" and as such a responsibility for UN members with respect to the accomplishment of the aims stated in the previous article and which includes a human rights phrase similar to the formula described above, is particularly significant. The phrase "human rights and fundamental freedoms" is not defined in the Charter, it must be admitted, but it would be incomprehensible if this phrase, which is often repeated throughout the Charter, had no significance.

Therefore, it must be considered that this phrase refers to fundamental human rights principles covered in Chapter 3 above. In this regard, it is important to keep in mind that, according to UN Charter article 103, if there is a disagreement between duties assumed under the UN Charter and duties derived from other international agreements, the UN Charter duties should take precedence. The International Bill of Human Rights, which includes the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights, is the development of the generally worded human rights provisions of the UN Charter.

Except for the Optional Protocol, which addresses a procedure for international implementation, this International Bill of Human Rights and its constituent components are general instruments of substantive international human rights law. In recognition of the fact that "the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world" (paragraph 1 of the preambles of these instruments), they present a thorough enumeration of a wide variety of human rights and fundamental freedoms with a view to establishing a global system for the promotion and protection of human rights. The counterparts to the aforementioned universal instruments at the regional level are the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights, both created within the Organization of American States, as well as the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, created within the Council of Europe.

A detailed reading of these international and regional instruments for the advancement and defense of human rights uncovers stunning instances of identity in some of the texts, as well as a great deal of textual similarity. This is as a result of the European Convention's and the American instruments' authors giving careful consideration to the United Nations' drafting effort. It should also be remembered that during the early years of the UN, when a lot of writing was done, delegates from (Western) European and American countries dictated the majority opinions. Therefore, it should come as no surprise that, generally speaking, there are more similarities than differences between the global and regional general instruments, particularly in terms of how substantive human rights legislation is framed and oriented.

Three different types of human rights are covered by the general instruments. The rights that aim to protect a person's liberty and physical and moral integrity come first. These rights include the following: the right to life; the freedom from slavery, servitude, and forced labor; the freedom from torture; the freedom from cruel, inhuman, or degrading treatment or punishment; the freedom from arbitrary arrest and detention; the right to a fair trial; the right to privacy; the right to freedom of thought, conscience, and expression. The right to freedom of opinion and expression; The right to peaceful assembly and freedom of association; The right to participate in the conduct of public affairs; and the right to vote, to be elected, and to access public service are all included in the second group of rights second group of rights: the right to social security; the right to rest and leisure; the right to an adequate standard of living, including food, clothing, housing, medical and social services; the right to education; and the right to social security. The final category includes economic, social, and cultural rights, such as: the right to work, to free choice of employment, and to just and favorable conditions of work; the right to form and join trade unions, including the right to Certain common elements included in the general human rights treaties are firmly rooted in human rights legislation.

First, there is the concept of equality or non-discrimination, which serves as the foundation for all tools and embodies the notion of justice in human rights legislation. Limitations that may be imposed on the enjoyment of rights and freedoms are another prevalent element. A universal restriction provision is included in certain agreements, most notably the Universal Declaration and the American Declaration as well as "promotional" instruments like the International Covenant on Economic, Social, and Cultural Rights. The restriction clause makes reference to things like respect for other people's rights, morality's justifications, public order, and the general well-being in a democratic society. The European and American Conventions, as well as the International Covenant on Civil and Political Rights, are more specific and have unique and differentiated limitation clauses in relation to individual articles. These documents, on the other hand, deal primarily or exclusively with civil and political rights. These documents do, however, also include a general restriction provision that permits States Parties to deviate from their responsibilities in times of national emergency, with the caveat that derogations from certain fundamental rights are never permitted. The idea of obligations or responsibilities is a third shared characteristic.

The American Declaration on the Rights and Duties of Man, which describes each person's obligations in at least 10 articles, is where this idea is most fully articulated. Other instruments are less clear in this area and refer to the obligations of each individual to the community as the only setting in which as the Universal Declaration states in article 29, paragraph I—the free and healthy development of the human personality is possible in the preamble (the International Covenants) or in a special provision (the American Convention). It is also important to keep in mind that the general human rights instruments in so far as they are developed in the form of conventions include machinery for global implementation.

There are descriptions of the different institutions and practices elsewhere. Here, just a few quick observations are allowed. The activities to be carried out by the organs provided for in the European and American treaties are more in the nature of legal adjudication, in contrast to the functions to be carried out by institutions based on international treaties, which are primarily concerned with information, conciliation, and advice. Since these institutions or organs play a crucial role in interpreting and developing substantive human rights law, the global institutions are more likely to carry out work of a diplomatic or political nature, whereas the regional organs typically adopt a judicial approach, as is supported by the practice of the European Commission and Court.

Although the American Declaration and the Universal Declaration do not have specific implementation mechanisms, this has not stopped them from actively contributing to the development of international human rights legislation. These declarations have served as important sources of information for those who have written subsequent international treaties, but many organizations of the international community have also utilized them as models for moral and political behavior. The American Declaration continues to be the primary standard of reference for the Inter-American Commission on Human Rights, but the Universal Declaration is operating in that sense in the work of the UN Commission on Human Rights and other UN institutions. Taking into account the numerous human rights instruments, it would seem that neither their formal embodiment (conventions or declarations) nor the fact that they include unique implementation mechanisms have, in and of themselves, been determining factors in terms of their ability to create or evolve laws. More information on this issue can only be obtained by analyzing the actual effects of such instruments at the national and international levels. the defense of the human person during his whole life The UN General Assembly passed Resolution 96 (I) on the crime of genocide on December 11, 1946, while still reeling from the horror of the mass killing of people during World War II. The resolution's first paragraph stated that "Genocide is a denial of the right of existence of entire human groups, just as homicide is a denial of the right to life of individual human beings; such denial of the right of existence shocks the conscience of mankind, r" The same resolution called for a draft convention on the crime of genocide to be developed. Two years later, the Convention on the Prevention and Punishment of the Crime of Genocide was passed by the Assembly in resolution 260 A (III) (1948). The Geneva Convention provides the following definition of this crime under international law: "Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (i) killing members of the group; (ii) seriously injuring group members physically or psychologically; (iii) purposefully subjecting the group to conditions of life calculated to cause its physical destruction, in whole or in part; (iv) causing

According to the Convention, in addition to genocide, conspiracy, open encouragement to commit genocide, attempted genocide, and cooperation in genocide are also crimes that are punished. Genocide is listed as one of the crimes against humanity to which there is no statute of limitations in the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, adopted by the United Nations General Assembly in resolution 2391 (XXIII) (1968). The Inter-national Convention on the Suppression and Punishment of the Crime of Apartheid, which was approved by the General Assembly resolution 3068 (XXVIII) (1973), was largely based on the Convention on the Prevention and Punishment of the Crime of Genocide. States parties affirm in this agreement that apartheid is a crime against humanity and that acts of inhumanity deriving from apartheid and comparable racial segregation and discriminatory laws and practices are crimes that violate the fundamentals of international law [4]–[6].

According to the agreement, apartheid is defined as a series of inhumane actions carried out with the intention of systematically dominating one race over another and establishing and maintaining that dominance. Depriving a member or members of a racial group or groups of their right to life and liberty of person is one of the cruel crimes described. The further explanation uses language that is quite close to the genocide convention. Additionally, both styles employ almost similar language to describe the intentional imposition of living circumstances on a racial group that are intended to result in its bodily annihilation in whole or in part. The treaty on the Suppression and Punishment of the Crime of Apartheid, however, significantly expands upon the genocide treaty in its list of crimes that are criminal.

DISCUSSION

The development and impact of international human rights law have been critical in establishing the current global framework for the defense and advancement of basic human rights. This article examines the historical background, significant turning points, and revolutionary effects of international human rights law on the international legal system.

Historical Background and Major Events

International human rights law has its roots in the post-World War II era, which was characterized by unseen atrocities and a common desire to stop them from happening again. The destruction caused by the conflict brought home how urgently a comprehensive framework protecting the fundamental rights and dignity of every person, regardless of their history or nationality, was required. With the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, the United Nations emerged as a crucial player in this situation. The Universal Declaration of Human Rights (UDHR) laid forth a number of basic freedoms and rights that were applicable to everyone, serving as the basis for international human rights law. The foundation for later international human rights agreements was created by this treaty, which placed a strong emphasis on concepts like equality, non-discrimination, and the defense of civil, political, economic, social, and cultural rights. Impact: The ratification of the UDHR signaled a dramatic change in how human rights were seen and safeguarded on the global arena. The UDHR had an impact that went beyond its position as a statement since its ideas helped establish binding international treaties and subsequently gave rise to customary international law. The later International Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights further cemented the dedication to defending a broad spectrum of rights [7]–[9].

Progress and Challenges: Despite substantial advancements in international human rights law, difficulties still exist. Ongoing issues include addressing changing manifestations of discrimination and inequality, providing efficient enforcement mechanisms, and striking a balance between universality and cultural relativism. Furthermore, there is still disagreement about how to balance various cultural norms with human rights principles.

CONCLUSION

The development and impact of international human rights law reflects the global community's united determination to stop violations of human rights and advance the universal values of justice, equality, and dignity. The continual advancement of human rights laws is necessary to solve new problems, safeguard vulnerable groups, and create a more equitable and inclusive environment for future generations as the globe encounters new possibilities and challenges.Additionally, regional human rights systems developed, which helped shape global human rights law. The American Convention on Human Rights and the European Convention on Human Rights both created systems for protecting human rights in particular geographical settings, serving as notable examples.

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CHAPTER 8

HUMAN RIGHTS DECISIONS BY INTERNATIONAL ORGANS

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ABSTRACT:

The tremendous effects of international organizations' choices on the creation, implementation, and interpretation of human rights laws are examined in this abstract. These groups, which include international courts, tribunals, and quasi-judicial bodies, are crucial to the advancement and protection of human rights on a worldwide scale. Their combined efforts address a variety of issues relating to human rights, settling conflicts between governments, people, and non-state actors. International human rights watchdog organizations have the power to look into infractions, provide legal interpretations, and recommend solutions. These organizations greatly influence the creation of human rights law by defining the extent and content of certain rights as well as the parameters within which governments must act to maintain these rights. Additionally, their rulings often set precedents that direct following cases, improving the regularity and predictability of the application of human rights. Important international organizations like the International Court of Justice (ICJ), regional human rights tribunals and commissions, and specialized UN committees like the Committee against Torture and the Human Rights Committee play crucial roles in determining how human rights are interpreted via their judgements. These organizations deal with a broad range of issues related to human rights, including civil, political, economic, social, and cultural rights. Their decisions have an impact that goes beyond the confines of the law, promoting a culture of responsibility and conformity to universal standards. A notable example of how international rulings may influence national legal frameworks and encourage conformity to international norms is the European Court of Human Rights (ECHR).

KEYWORDS:

Cultural Relativism, Enforcement Challenges, International Organs, Global Impact, National Sovereignty.

INTRODUCTION

The formulation, application, and interpretation of international human rights rules are significantly influenced by the judgments made by these bodies. These organizations, which may consist of international courts, tribunals, and other quasi-judicial entities, are crucial tools for advancing and defending the ideals of human rights on a global level. Their choices are the result of a group effort to resolve numerous human rights challenges and disagreements that exist between governments, people, and even non-state entities. International bodies charged with monitoring human rights have the power to investigate claims of breaches, give legal interpretations, and provide remedies when rights are violated. By clarifying the extent and substance of certain rights and drawing the limits within which governments must act to respect and safeguard those rights, these organisations make a significant contribution to the development of human rights legislation. Additionally, these rulings often set precedents that direct following cases, improving the uniformity and predictability of the implementation of human rights.

The International Court of Justice (ICJ), regional human rights courts and commissions, and specialized UN committees like the Human Rights Committee and the Committee against Torture are important international entities that rule on issues relating to human rights. These organizations deal with a broad range of topics relating to human rights, including civil and political rights as well as economic, social, and cultural rights. Their rulings encourage a culture of responsibility and conformity to international norms in addition to holding governments responsible for infractions. The case law created by the European Court of Human Rights (ECHR) is a prominent illustration of how judgements made by international bodies have an influence. Through its rulings, the ECHR has outlined and broadened the range of safeguards for human rights in Europe, influencing national legal frameworks and enticing nations to align their policies with global human rights standards. Furthermore, the rulings of the ICJ, the main court of the UN, provide authoritative interpretations of human rights treaties and aid in the development of customary international law in the area of human rights [1]–[3].

Decisions of International Organs

It is crucial to understand that the desire of nations to execute and abide by the rules determines how successful these decisions will be. The rulings may be resisted by certain nations or ignored, which would make it harder to defend human rights effectively going forward. Furthermore, discussions on cultural relativism, the universality of rights, and how to strike a balance between national sovereignty and global responsibility are often reflected in the judgments made by international bodies.

Human rights rulings are made by several international bodies. Political, quasi-judicial, and judicial organs may generally be distinguished. Political bodies are often made up of representatives who have been appointed by the government. Typically, their meetings are open to the public. Because these political bodies operate inside the framework of intergovernmental organizations, a lot of the opinions and interests of governments are reflected in their judgments. Representative political bodies serve as (quasi-)legislators and play a significant role in drafting and enacting laws on both the national and international levels. The public opinion of the peoples should, in theory, be the source of all generally applicable rules formed or evolved ("We the Peoples of the United Nations.

International human rights instruments adopted by political bodies, whether in the form of conventions (which must be ratified by States parties in order to take effect) or in the form of declarations or even recommendations, are or will become a part of international human rights law through consistent affirmation and practice. The same political organs or sub-organs that make or develop laws, or, in cases involving international peace and security, the Security Council as the proper organ, may be asked to make decisions pertaining to particular human rights situations that have an impact on actual governmental policies and practices. Political considerations often play a role in such specific instances of the application (or non-application) of human rights rules. It is not implied here that the relevant judgments, whether they relate to the apartheid policy or flagrant breaches of human rights by a military regime, do not constitute a very valid human rights concern in light of the existing political reasons.

However, it is acknowledged that such choices are heavily influenced by political beliefs and interests about the particular circumstance, and that this does not imply that conclusions of a similar kind would logically follow in connection to future situations when human rights are infringed in the same way consistently. In other words, political expediency will be considerably more important than judicial criteria like the force of law or legal precedents when the political organs make judgments in actual human rights issues.

This is true for the majority of United Nations bodies, such as the Commission on Human Rights, Economic and Social Council, Trusteeship Council, Security Council, General Assembly, etc. Decisions made by these bodies with relation to specific circumstances may be seen as political interventions motivated by humanitarian concerns, or vice versa.

The majority of the time, quasi-judicial bodies handle real-world disputes or issues concerning human rights. They often aren't asked to make conclusions that have legal consequences; instead, they're asked to carry out mediation and inquiry tasks. They might also provide their thoughts or make suggestions. Numerous similar quasi-judicial entities, both permanent bodies and ad hoc ones, have been included into the current international human rights framework. The Committee on the Elimination of Racial Discrimination, the European Commission of Human Rights, the Inter-American Commission on Human Rights, and the Freedom of Association Committee of the Governing Body of the ILO are prominent examples of permanent organizations. The Ad Hoc Working Group of Experts of the UN Commission on Human Rights (whose mandate has since been regularly extended) and Commissions of Inquiry constituted under article 26 of the IL0 Constitution may be mentioned as examples of ad hoc committees. As a component of a convention's implementation mechanism or as a subsidiary organ of an international organization, these quasi-judicial bodies are required to uphold international human rights norms. Their job is to compile a report that includes the pertinent information they have discovered, their conclusions, and suggestions. These recommendations may be made to one or more of the governments involved, to political bodies, or to judicial bodies for future action. By interpreting and implementing international norms, several of these quasi-judicial bodies, most notably the European Commission of Human Rights and the Freedom of Association Committee of the ILO, have produced a significant corpus of case law. They often make reference to judgments they have made in the past, which helps to establish some consistency in the standards and criteria used. In other cases, they help advance these standards even farther than what is expressly covered by the relevant international agreements.

The IL0 Freedom of Association Committee's approach on the right to strike is one example. The Committee has repeatedly and consistently held the position that allegations relating to this right are within its jurisdiction and that the right to strike by workers and their organizations is generally recognized as a legitimate means of defending their occupational interests, even though this right is not included in the relevant IL0 Conventions on Freedom of Association. Although judgments made by quasi-judicial bodies are often not legally enforceable, they have a significant influence as directives to governments or to political or judicial bodies. For the implementation and advancement of international human rights legislation, the actual operations of these quasi-judicial bodies as well as their potential are very valuable. It would appear that quasi-judicial bodies have a better chance of becoming effective tools for the promotion and protection of human rights than judicial bodies like the European Court of Human Rights and the International Court of Justice, which issue decisions that have legal force in contentious cases.

In compared to political and quasi-judicial bodies that deal with human rights, these courts' roles in real practice are rather restricted. On the other hand, it is true that court judgments, even if they were made regarding specific situations in light of the situation at the time, have a significant impact on authoritatively interpreting the law.

There is no question that theory may only serve as a secondary source of law for establishing the scope and meaning of human rights given the emergence of a corpus of positive international human rights law, notably in general and specific instruments, whether they conventions or declarations. However, it could be beneficial to consider other reports or

publications from people, groups, associations, or international organizations with a specific interest or expertise in this sector in addition to limiting theory in this area to the works of publicists. Thus, studies carried out, for instance, by special rapporteurs of the UN Commission on Human Rights or of its Sub-Commission may be of great significance in determining the field of application and the meaning of human rights law in a given area and may influence the further development of this law. In fact, one of the distinctive features of international human rights law is that this branch of international law extends well beyond the domain of international judicial decisions and inter-governmental practice, as well as the international commission of jurists, and the studies and statements by non-governmental organizations and institutions (such as Amnesty International, the International Institute of Human Rights, the International Commission of Jurists, and the International Commission of Jurists) undeniably carry considerable authority. It would not be audacious to claim that all parties involved words and actions have a direct or indirect impact on the philosophy of human rights since many groups in the national and international society are interested in international human rights legislation.

DISCUSSION

International organizations' judgments on human rights issues provide the backbone of efforts conducted across the world to advance, defend, and uphold basic freedoms and rights. These rulings, which were developed by international courts, tribunals, and quasi-judicial bodies, have a significant influence on how human rights standards are interpreted and applied globally. This debate examines the rulings' wide-ranging effects, their relevance in the creation of human rights laws, their function in creating precedents, and the difficulties they provide in striking a balance between domestic and international obligations.

International organizations have a lot of power when it comes to resolving issues involving human rights, including the International Court of Justice (ICJ), regional human rights tribunals, specialized United Nations committees, and other quasi-judicial authorities. Their rulings have an impact that extends beyond specific instances; often, they determine the boundaries of human rights and provide guiding principles for future judgements. These rulings advance the development of human rights standards by defining the parameters within which governments must act to respect and protect rights [4]–[6].

Creating Models and Promoting Consistency

International human rights rulings have an impact that goes beyond specific cases because they often establish legal precedents that govern related situations in the future. The interpretation of human rights laws is made consistent and predictable by these precedents. For instance, the European Court of Human Rights (ECHR) has decisively influenced the development of human rights norms in Europe. These precedents not only have an impact on national legal systems, but they also persuade countries to align their political stances with global human rights norms.

Impact on Global Responsibility and National Sovereignty

In decisions made by international bodies on human rights, the difficult balance between national sovereignty and global duty is a recurrent subject. The universality of human rights necessitates collective responsibility to guarantee their preservation even if states are autonomous entities. International agencies' rulings often mediate this conflict by holding governments responsible for rights violations. However, because to worries about sovereignty, certain countries may oppose or reject these rulings. This raise concerns regarding whether or whether decisions to uphold human rights are successful.

Relativism across cultures and universality

International organizations' decisions also take into account the continuing debates over cultural relativism and the universality of human rights. These organizations must balance defending basic values with the issue of interpreting rights in a way that accommodates various cultural circumstances. While certain judgments may be influenced by cultural factors, others believe that rights are universal. This dynamic emphasizes the intricate interaction between various value systems and the changing character of rules pertaining to human rights.

Problems and Prospects for the Future

International organizations' judgments on human rights have a great deal of promise, but how well they work relies on how ready governments are to put them into practice and uphold them. Decisions may lose their influence if there is resistance, non-compliance, or selective adherence. Decision-making may also become fragmented and inconsistent as a result of the expansion of international organizations and the variety of human rights disputes. It continues to be difficult to strike a balance between the requirement for flexibility and the authority of judgments [7]–[9].

CONCLUSION

In conclusion, international bodies' judgments in the area of human rights have a significant impact on how the world views its protection of these rights. In addition to offering victims of rights breaches redress, these rulings help advance the field of human rights law and set precedents for cases to come. The significance of these verdicts highlights the critical role that international legal institutions play in protecting the basic rights and freedoms of people across the globe, despite the fact that there are still issues to be resolved.In this regard, the many organizations of the national, regional, and worldwide communities that are concerned with the promotion and preservation of human rights and basic freedoms may utilize and use the judgments of judicial organs as trustworthy reference sources.

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CHAPTER 9

UNRAVELING HUMAN RIGHTS IN EMERGENCY SITUATIONS

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ABSTRACT:

Your provided abstract, "Unraveling Human Rights in Emergency Situations: A Study of Developing Nations and Underdevelopment," alludes to a thorough investigation of the complex connections between human rights, emergencies, and the difficulties that developing countries encounter as a result of underdevelopment. The three diverse scenarios of underdevelopment, internal instability, and armed war are the subject of this research, which explores the intricacies of emergency situations in numerous settings. The research looks beyond economic issues, noting that internal structures, historical foundations, and international linkages all contribute to underdevelopment. It explores the effects of these processes on human rights, especially the right to development, and challenges whether underdevelopment could be seen as an emergency situation requiring the application of specific human rights laws. The research examines how human rights and development interact, illuminating the difficulties involved in addressing human rights in the face of crises and underdevelopment in the developing countries.

KEYWORDS:

Developing Nations, Emergency Situations, Emergency ResponseHuman Rights Challenges, Underdevelopment.

INTRODUCTION

All legal systems, including the system of the international protection of human rights, share the concept of emergency circumstances and derogations from basic principles when public order thus necessitates. This chapter addresses the issue of human rights in emergency circumstances with reference to three distinct sorts of such situations, each of which is unique but has certain characteristics that make human rights very insecure. It is essential to establish "emergency" scenarios in advance since they are fundamentally distinct from the circumstances that need to be evaluated. Let's first check the definitions in the dictionaries. One dictionary defines an "emergency" as a "sudden unexpected happening; an unforeseen occurrence or condition; perplexing contingency or complication of circumstances; a sudden or unexpected occasion for action; exigency, pressing necessity." An emergency is an unanticipated set of events that necessitates immediate action.

The problems that need to be handled here are neither "normal," "ordinary" situations that are often encountered in the application of human rights, according to this description. They are thus preceded or followed by circumstances that are seen as usual, which accounts for their transient nature. Additionally, they do not call into doubt the principles, which remain legitimate, as shown by the legal examination of the conclusions reached from such instances. According to another definition, "emergency" is a political phrase used to describe a situation that is similar to a state of war. This makes what is meant by "exceptional circumstances" in this chapter even clearer: a war is an extreme emergency situation, and the closer an emergency situation is to a war, the more similar the challenges it faces in protecting human rights are to those that exist during a war. In a nutshell, an "emergency

situation" would be understood here to be one brought on by transient circumstances that put State institutions in danger and give the authorities cause to feel justified in suspending the implementation of particular norms. The leaders of these nations frequently believe that the exercise of certain human rights is, in such circumstances, a luxury that their peoples cannot afford until a more or less long time has passed. This is because the planet's resources are not distributed in accordance with each people's needs. Thus, the first emergency scenario to be evaluated is one of underdevelopment.

The authorities of a nation may no longer guarantee some of the most fundamental rights (the right to life, the right to an adequate standard of living) in the event of earthquakes, famines, fires, floods, and other "natural" catastrophes. In these cases, the authorities feel it is necessary to stop upholding other rights in order to protect the most important rights. We will now address the second emergency scenario that has arisen. Internal unrest and armed conflict make up the third emergency circumstance, and as we'll see, their legal framework is by far the most evolved [1]–[3].

Poverty, sickness, an unchecked population growth, inequities, and a host of other variables that are statistically quantified in comparison to the so-called "developed countries" describe the economic and social situations of those nations referred to as "developing countries." There are now approximately 800 million people that are completely impoverished in the globe, as measured by factors like per capita income. The quantitative approach is subject to criticism on two levels: the economic and the semantic. At the economic level, it is criticized for failing to account for the kinds of differences, and particularly the structural differences, between the economically developed countries, whose economies typically form a whole in which all the components interact, and the materially underdeveloped countries, whose economies are disjointed because they are made up of juxtaposed elements.

Therefore, from the perspective of quality of life—as measured by the participation of all social groups in the active life of the country and the effort to ensure the full development of each human being—the economically "developed" countries are frequently "under-developed" and lack these elements. According to this interpretation, "development" necessitates changes in both economically developed and materially underdeveloped nations. The role of man in development and its connection to human rights were articulated by the Executive Board of UNESCO in 1969.

In order to comprehend the issues with human rights in emerging nations, one must critically consider the concept of development, which goes beyond a discussion of economic factors. When considered holistically, under-development is a product of both the internal structures of the respective nations as well as, and perhaps most importantly, the structural relationships between the developed nations in the "centre" (North) and the developing nations in the "periphery" (South). Since underdevelopment has historical and structural roots, it is important to understand them before evaluating the status of human rights in such nations.

The condition of these rights is inextricably linked to the institutions and procedures used in resource exploitation, the local and global market, and global political and military alliances. In any case, the majority of developing nations, especially the poorest ones, do not fully exercise their sovereignty over their natural resources, do not have control over the prices at which they sell their raw materials to industrialized nations, and even less so over the prices at which they must purchase the manufactured goods. Furthermore, their economic infrastructure was developed as a result of either direct foreign dominance (through colonialism or occupation) or indirect foreign dominance (through, for example, trade agreements).

Given this, it makes sense that the self-determination of nations and peoples and sovereignty over their natural resources, which are outlined in Article 1 of the two United Nations Covenants and discussed elsewhere in the present work, should be seen as fundamental principles of human rights. It can even be argued that eliminating the root causes of underdevelopment is a human right in and of itself. The right to development has been recognized as a human right by the General Conference of UNESCO, specifically in Article 3 of the Declaration on Race and Human Rights, as well as by the UN Commission on Human Rights, particularly in Resolutions 4 (XXX111), 4 and 5 (XXXV), and 6 (XXXVI). However, the link between human rights and development is not only established by the abolition of colonialism and neo-colonialism.

In Resolution 34/46 on the 7th of December 1979, the General Assembly endorsed the Commission's stance on the existence of this right. This chapter's goal is to raise the question of whether and to what extent under-development, in international human rights law, constitutes an emergency situation giving rise to the application of special rules relating to the implementation of human rights, rather than to analyze the interactions between development and human rights or the right to development as a human right.

A clause stating that the peoples of the United Nations "have determined to promote social progress and better standards of life in larger freedom" was added to the draft Preamble because of Article 55(a) of the Universal Declaration of Human Rights. The opinion was not taken, however, that for the purposes of human rights, a distinction between States according to their level of development belonged in a declaration proclaimed to be "a universal declaration." Additionally, the Declaration of Human Rights provides a provision in Article 29(7) on the limitations to which human rights must be subject and which must be established by law in order to, among other things, uphold the just moral standards. in a democratic society, as well as the general welfare.

Although the concept of an emergency situation arising from social and economic conditions may be considered to have originated with article 29 of the Universal Declaration, the developing countries were not being specifically mentioned at the time Commission III of the General Assembly appeared to have interpreted the words "the general welfare" as signifying economic and social requirements. For this concept to be defined, but only with relation to the status of foreigners, it was required to wait for the International Covenant on Economic, Social, and Cultural Rights.

Accordingly, Article 2, Section 3 of the Covenant states that "Developing countries may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals, having due regard for human rights and their national economy." The prominence given to this concept, as well as the rights to self-determination and natural resource sovereignty, in the Covenants reflects the change in the nations' relative power bases between 1948 (the Declaration) and 1966 (the Covenants). This process was later to accelerate significantly, and the idea of an emergency situation as it is understood in this chapter started to take shape.

A special study on "Some Economic Foundations of Human Rights" was created by Mr. Jose Figueres in honor of the International Conference on Human Rights, which was held in Teheran from 22 April to 13 May 1968. The conference was organized by the General Assembly to commemorate the twentieth anniversary of the Universal Declaration of Human Rights15. The Conference approved Resolution XVII, titled "Economic development and human rights," which contains the paragraphs listed below, based on this research.

The obstacle created by the gap between economically developed and underdeveloped countries, as well as the "inherent correlation between the enjoyment of human rights and economic development" mentioned in Resolution XVII, are currently at the forefront of discussions regarding the implementation of human rights at the UN and elsewhere. The idea that underdevelopment represents an emergency situation has consequences for economic, social, and cultural rights as well as civil and political rights, as the enjoyment of the former is not possible without the latter. In fact, the Economic and Social Council stated in response to a study on economic and social rights that it is "convinced that early realization of economic, social, and cultural rights can be achieved only if all countries and peoples are able to attain an adequate level of economic growth and social development and if all countries institute all necessary measures with a view to eliminating inequality in income distribution and social services in accordance with the International Covenant on Economic, Social, and Cultural Rights.

" Although the text relating to the International Development Strategy" indicates with some precision the goals and objectives pursued along with measures designed "to create in the world a more just and more rational economic and social order," it was quickly replaced by decisions which go much further in trying to identify the causes of, and solutions to, under-development in the world and which tell us more about the links between development and The United Nations General Assembly's Sixth Special Session, which approved the Declaration and Programme of Action on the construction of a new international economic order (3202 (S-VI)), was the most significant event in this direction. Concerning the reasons for underdevelopment, the Declaration unequivocally declares that "the remaining remnants of alien and colonial domination, foreign occupation, racial discrimination, apartheid, and neo-colonialism in all its forms continue to be among the greatest obstacles to the full emancipation and progress of the developing countries and all the peoples involved." As a result, it is "in direct conflict with the current developments in international political and economic relations" since the existing system "was established at a time when most developing countries did not even exist as independent States.

The interdependence between all of the world's citizens leads to the conclusion that everyone's prosperity depends on the prosperity of the individual parts, and that it is therefore imperative to address the imbalance between developed and developing nations. The General Assembly approved the "Charter of the Economic Rights and Duties of State" during its 29th session in response to these decisions and in accordance with Section VI of the Programme of Action as the "first step in the codification and developments of the matter." The "fundamentals of international economic relations" a set of fifteen principles that include "respect for human rights and fundamental freedoms" are reiterated at the outset of the Charter. Human rights as such are not mentioned in the Declaration, the Programme of Action, or anywhere else in the Charter. However, these documents' provisions do point out certain structural adjustments that must be done before Third World nations and wealthy nations may be regarded as equals from the perspective of the application of human rights. The Commission on Human Rights' decision to expand its traditional agenda item on the realization of economic, social, and cultural rights and unique problems of developing countries is indicative of the growing tendency to link respect for human rights to the creation of a new international economic order [4]–[6]. Whatever one's opinion of the Third World countries' claims, which have been criticized for either going too far and jeopardizing development prospects for everyone or for being focused on the elites and ignoring the true development issues of the dominated masses, the fact remains that, for these nations, the economic and social conditions of underdevelopment will constitute an emergency situation until a new international economic order is achieved.

The premise of the enjoyment of all human rights, however, is nevertheless upheld in this scenario; only certain rights may not be completely guaranteed or may even be abandoned for the duration of the emergency situation. Despite the fact that slavery has been virtually abolished since the anti-slavery campaign of the 19th century and is outlawed by legal restrictions put in place in the 20th century, instances of its continuation have been noted, especially in emerging nations. The traditional kind of slavery has been linked to the effects of socioeconomic circumstances, such as nomadism and very low national income levels that make it impossible to pay for the slave's labor.

Given the large number of developing nations that have ratified both the Slavery Convention and the Supplementary Convention on the Abolition of Slavery, it can be assumed that these nations understand the absolute nature of the prohibition against slavery. This is because, despite the challenges associated with trying to eradicate slavery globally, underdevelopment cannot be used as a defense or an explanation for the existence of slavery. The same is true for cruel, inhumane, or humiliating treatment, including torture. Even though one of the reasons given for the continued use of torture is that developing nations lack the resources to adequately train their police forces and to obtain the desired information in any other way, all States, regardless of their level of development, are required to outlaw torture and similar practices. The third example of a human right that no nation feels justified in breaching is the ban of genocide. But emerging nations have seen the most recent occurrences of this crime. A more challenging example is the freedom to choose one's work, which is protected by Article 23 of the Universal Declaration. The participants in the United Nations seminar held in Dakar in 1966 held the opinion that the economic and social conditions in Africa prevented the implementation of that right for the time being because it was occasionally necessary to exercise some control over the population's choice of employment in order to protect them from unemployment.

In this respect, restrictions may come in many different shapes, such as the requirement that jobless people conduct community service, the responsibility to carry out charitable work, the need to utilize property in accordance with a development plan, training-level advice, etc. It may be difficult to discern between forced labor, which is forbidden under the IL0 Conventions, and constraints on the right to choose one's employer that are necessary for growth. Like other exceptions in the area of human rights, this one may only be acceptable if it is in the public interest, really necessary in the circumstances, and reasonable in light of the requirements involved. It has often been noted that since the Universal Declaration, the right to private property has experienced a negative development. At the time when Article 17 of the Declaration was being written, its very existence was questioned. The right itself has been questioned by developing nations, some of which have pointed out that this right may inhibit development, even if the limitations on this right may be connected to underdevelopment. In any event, the right to property is subject to an essential constraint based on the public interest in the regional conventions of Europe36 and America37 and is not included in the Covenants of 1966. The issue of journalistic freedom and freedom of speech is far more challenging. While the freedom to seek, receive, and transmit information has given rise to difficult issues in affluent nations, its implementation encounters distinct and even more significant issues in developing nations. For a nation with extremely limited resources available for a national press, for television and radio programs, for the training of journalists and media professionals, etc., the effects of unrestricted freedom in this area are in fact simple to foresee. Such a State is vulnerable to individuals who control such resources, or to foreign interests or a class of society that does not represent the majority. Additionally, knowledge is crucial for educating and organizing the populace, which in turn aids in the development process. The State's monopoly may thus seem to be required. However, this

might also result in arbitrariness or stop the general public from discovering the truth about issues that are important to them. In contrast to developed nations, information problems occur in developing nations both at the level of technical infrastructure (printing presses, radio and television broadcasting stations, film studios and cinemas, press agencies, etc.) and at the level of political structures and attitudes (existence or non-existence of an opposition party, degree of public political awareness, etc.). Most of the time, no private organization has the requisite funding to create information firms, unless it is international or supported from overseas. According to the nations involved, some government involvement may be required to increase the media's independence from these foreign interests. The limitations on the use of freedom of information lose their reason when a communication network is formed and political stability is secured; thus, more freedom is needed. The freedom of association is the last example that will be looked at. Insofar as the establishment of a single party is seen by numerous newly independent nations as important for growth, the political arguments made in favor of information freedom also apply to political affiliation. To overcome colonial complacency and the unique interests of tribes or other groups, for instance, the African nations must be able to depend on national unity in order to enjoy the benefits of development.

DISCUSSION

A complicated and important field of research that needs careful investigation is thedelicate connection between human rights and emergency circumstances, especially in the context of developing countries and underdevelopment. This conversation explores the complex obstacles that developing countries must deal with when addressing human rights concerns in emergency situations. These circumstances include a wide range of crises, including as military wars, natural catastrophes, internal turmoil, and structural inequality. Emergency events can make pre-existing vulnerabilities worse in poor countries, creating particular difficulties for the defense and advancement of human rights.

The impact of emergency circumstances on developing countries

Developing countries are disproportionately affected by emergencies because they have less infrastructure, less resources, and lower institutional capacity. Natural catastrophes like earthquakes, famines, and floods have the potential to cause serious and urgent human rights breaches as governments fight to preserve essential services and defend residents' rights to appropriate living conditions. When government agencies must transfer funds from defending certain rights to meet other pressing demands, the delicate balance between various human rights is put in jeopardy.

Human Rights and Underdevelopment

The idea of underdevelopment emphasizes the structural and systemic problems that prevent the achievement of human rights in poor countries. People are denied their rights to education, healthcare, and a living standard that is appropriate due to socioeconomic situations that are marked by poverty, sickness, and inequality. When resources are limited in an emergency, the effort to protect these basic rights is often made worse. The Relationship Between Human Rights and Development Human rights and development have a complex and multidimensional connection. On the one hand, everyone has the right to participate in, contribute to, and profit from the growth of their society since it is acknowledged as a basic human right. On the other side, underdevelopment may impair a state's ability to uphold and safeguard human rights, particularly in times of crisis. This interaction makes it unclear how emergency conditions affect a country's capacity to accomplish development objectives while safeguarding human rights [7]–[9].

Sovereignty and Global duties

Emergencies often bring to light the conflict between national sovereignty and global duties in developing countries. According to several international conventions and guiding principles, the international community has a responsibility to support developing countries in times of need. However, the reaction is often based on geopolitical considerations, which can jeopardize the defense of human rights. It continues to be difficult to strike a balance between national sovereignty and the international obligation to defend and maintain human rights.

Legal Frameworks and International Norms

There are issues with the interpretation and application of the legal frameworks and international standards that govern the protection of human rights in emergency circumstances. It is a tough undertaking to strike a balance between the necessity for temporary derogations from rights during crises and the requirement to prevent misuse and maintain responsibility. To ensure that emergency measures are appropriate, necessary, and consistent with international human rights norms, developing countries must traverse these issues.

CONCLUSION

In light of developing countries' underdevelopment, it is crucial to research the subject of human rights in emergency circumstances. It provides light on the complex difficulties these countries confront as they deal with crises that might worsen current vulnerabilities and jeopardize the defense of basic human rights. For successful policies, initiatives, and international partnerships that put human rights and sustainable development first in times of crisis, a thorough knowledge of these dynamics is necessary.Consequently, it is widely acknowledged that a balance must be struck between the preservation of national cohesion and togetherness on the one hand, and the freedom of expression and information for everyone on the other. It is hardly unexpected that some newly independent States have stricter freedom of information laws than in wealthy nations given their vulnerable condition.

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CHAPTER 10

AN EXPLANATION OF EMERGENCY ARISING FROM NATURAL CATASTROPHES

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ABSTRACT:

This abstract explores the complex relationship between the need of upholding human rights in emergency situations and natural disasters. It looks at how natural catastrophes disproportionately impact vulnerable groups, upsetting lives and exacerbating vulnerability. The need of incorporating human rights concepts into emergency responses is emphasized in the essay, which places particular emphasis on the rights to life, dignity, non-discrimination, and participation. In addition to advocating for openness, accountability, and significant community involvement, it examines the difficulties of striking a balance between civil freedoms and public safety in crisis circumstances. The essay also discusses the continued importance of human rights in recovery and rebuilding efforts, including fair access to resources, education, and employment. It also dives into the post-disaster period. The paper emphasizes both compassion and justice throughout, attempting to highlight the crucial role of human rights in navigating and minimizing the enormous difficulties presented by natural disaster events.

KEYWORDS:

Civil Liberties, Disaster Management, Dignity Equity, Natural Catastrophes, Vulnerable Populations.

INTRODUCTION

The junction of "Emergency Arising from Natural Catastrophes" and "Human Rights" poses important issues about how disaster relief and the defense of basic human dignity interact. The necessity to ensuring that emergency responses are based on a strong foundation of human rights principles is highlighted by the fact that when nature's fury unleashes immense destruction, it often reveals vulnerabilities that disproportionately harm vulnerable people. Respecting human rights in these terrible situations becomes not just a moral obligation but also a practical need since it directs the distribution of resources, the care of those who are impacted, and the goal of fair recovery.

Natural disasters indiscriminately ruin people's lives, uproot whole communities, and cause unimaginable misery. under the midst of this upheaval, the values upheld by international human rights legislation act as guiding lights of hope, serving as a reminder to governments, humanitarian aid groups, and the whole world community that every person's intrinsic worth and dignity are unbreakable even under dire circumstances. When a crisis occurs, the right to life, to be free from torture or other cruel treatment, and to sufficient shelter and medical care become even more important, serving as the cornerstone for successful emergency responses.

However, turning these rights into practical acts often uncovers gaps and difficulties. Marginalized groups usually suffer the greatest losses as a result of natural disasters, making them more vulnerable. These categories include the underprivileged, women, children, and people with disabilities.

Maintaining the principles of human rights during catastrophes is dependent on ensuring them fair access to emergency relief, protecting them from prejudice and exploitation, and attending to their particular needs. The right to participation must also be respected; not only is it morally right, but meaningful involvement of impacted communities in decision-making processes also improves the effectiveness and relevance of relief operations.

The emphasis on responsibility is a crucial component of incorporating human rights into disaster response. Governments and other responsible parties are required to defend the rule of law, promote openness, and make sure that any emergency measures are reasonable, necessary, and only temporary. It is crucial to uphold human rights principles even in urgent situations in order to strike a balance between ensuring public safety and avoiding undue limits on civil freedoms [1]–[3]. The perspective of human rights continues to guide recovery efforts in the wake of natural disasters as civilizations are rebuilt and rehabilitated. In order to reclaim dignity and ensure a more robust future, it is essential to have access to adequate housing, education, employment, and community links. In addition, human rights concerns need a comprehensive strategy that takes into account catastrophes' long-term effects, aiming to improve the general well-being of the impacted populations beyond pre-crisis levels rather than just aiding in their recovery.

The emergency situation that develops as a result of natural disasters often, although not always, starts the minute the event occurs. It is the responsibility of the government of the affected country to take the necessary steps to lessen the effects of the event in advance in the interests of the entire population insofar as the catastrophe has been anticipated, and it is the role of the Red Cross and the United Nations Disaster Relief Co-Ordinator to assist States in anticipating and planning relief4'. It may be necessary to impose, prior to the disaster, some restrictions on freedom of movement and residence (forced evacuations from areas in danger of being affected), the freedom of the press and other information. This is in addition to the measures relating to the planning of relief that do not affect the exercise of human rights (appointment of a single coordinator, training of administrative and medical personnel, storage of tents, blankets, foodstuffs, etc.).

4G,freedom of employment (using laborers to construct shelters, dykes, etc.), the right to property (requisitions), and other rights that may be subject to the strictly necessary limitations for the purpose, under the terms of the international instruments, of meeting the just requirements of the general welfare (Article 29 of the Universal Declaration) or for the protection of national security, public order, or public health (including, but not limited to, Articles 19 and 21 of the Covena). The "threat" of danger, or the time before the occurrence, is included in the few treaties now in effect that specifically allow for exclusions in circumstances of force majeure. This includes several IL0 Conventions. At least eight international labor treaties have a clause for exceptions in times of war or disaster. By way of illustration, the obligations outlined in the Convention (No. 29) on Forced Labor, 1930, do not apply to "any work or service exacted in cases of emergency, that is, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general, any circumstances that would endanger the existence or the well-being.

This paragraph not only provides a great description of an emergency situation but also demonstrates how the time leading up to the disaster might be taken into account in a legal document (a "threatened calamity" or "any circumstance that would endanger"). In this regard, the IL0 Committee of Experts on the Application of Conventions and Recommendations states that "the length and extent of compulsory service, as well as the purposes for which it is used, should be strictly limited in accordance with the requirements

of the situation" and compares this stipulation to that of Article 4 of the International Covenant on Civil and Political Rights. Having mentioned this for the time leading up to the natural disaster, we will now analyze the human rights instruments' derogation provisions that may apply to other emergency circumstances following the occurrence of such calamities. Derogatory provisions Article 4 of the Covenant on Civil and Political Rights, Article 15 of the European Convention, and Article 2'7 of the American Convention all, in essence, include the derogation provision.

However, these three texts forbid deviations from the principles of the lawfulness and non-retroactivity of criminal laws, the right to life, the prohibition against torture, and the ban against cruel or degrading treatment or punishment. In Table I, a list of these rights is presented. The allowed derogations must be strictly be necessary by the circumstances and reported to the appropriate authorities. Additionally, they must not conflict with other duties under international law. The objective of the competent authority will be to determine whether the declaration of a public emergency in response to the natural disaster warrants the employment of the derogation clause. The case for a natural disaster has not yet materialized, and case law in this area, particularly that of the European Commission and Court of Human Rights, refers to war circumstances. The Nicaragua earthquake provided an opportunity for the IL0 Committee of Experts on the Application of Conventions and Recommendations to weigh in on a scenario involving a natural disaster. In this case, a town was engaged, and as a result, just a portion of the population. Furthermore, the Convention Concerning Force or Compulsory Labor's wording, which was previously cited, said that "the whole or part of the population" might be in risk, which seems reasonable when considering natural disasters. A "public emergency threatening the life of the nation" is defined by the Court in the case Gerard Lawless v. Republic of Ireland as "an exceptional situation of crisis or emergency which affects the entire population and constitutes a threat to the organized life of the community of which the States is composed." The precedents of the European Convention's organs, however, appear to be more limited. True, this precedent refers to war circumstances rather than incidents of natural disasters, therefore the issue of whether the Commission's reading of Article 15 would hold true in the event that a natural disaster only affected a portion of a state's territory emerges.

The international documents also include a variety of limits, either in the definition of certain rights or in particular exception provisions, in addition to derogation clauses. The remainder of this section addresses the potential application of these constraints in the event of a natural disaster, but it also applies, mutatis mutandis, to war scenarios, which are discussed later on. The articles pertaining to the right to life (Articles 6 of the Covenant on Civil and Political Rights, Articles 2 of the European Convention, and Articles 4 of the American Convention) make an exception for the death penalty (and in the sole case of the European Convention, for death when it results "from the use of force which is no more than absolutely necessary") when it is necessary: a) in order to defend any person from unlawful violence; b) in order to effect a lawful arrest or to prevent the All of these instances of life deprivation might occur after natural disasters. As stated in Article 8 of the Covenant, Article 4 of the European Convention, Article 6 of the American Convention, and International Labor Organization Conventions No. 29 and No. 105, "any service exacted in cases of emergency or calamity threatening the life or well-being of the community" and "any work or service which forms part of normal civil obligations" are not covered by the prohibition against forced labor."7 The IL0 Committee of Experts' position on the issue of forced labor in disaster situations has previously been addressed. Regarding the European Commission, did you know that it specifically looked at this clause in the Zversen v. Norway case? This case involved a Norwegian doctor who was forcibly relocated to a distant area of the country's north in line

with a temporary legislation from 1956. While the majority of the Commission (four of the six members) believed that the work required of Iversen was neither unfair nor oppressive and that the Commission therefore did not need to determine whether Art. 4 (3) applied, the two remaining members believed that the service in question constituted a reasonable service in the case of an emergency endangering the community's well-being. The restrictions outlined in the articles (Articles 5 of the European Convention, 7 of the American Convention, and Articles 9 and 10 of the Covenant on Civil and Political Rights) on the right to liberty permit authorized arrests and detentions under normal circumstances. According to Article 5 (1) (e) of the European Convention, it is also legal to hold someone who is likely to transmit an infectious illness. This may be essential following a natural disaster, especially during an epidemic. The articles of international human rights treaties that reaffirm or declare a right often include a second paragraph outlining the restrictions that may be used and imposed in the event of a natural disaster or other emergency circumstances. Emergency situations based on force majeure brought on by a natural disaster need to be addressed carefully, much as situations deriving from general social and economic factors. The temptation to argue that international human rights standards must be suspended in order to deal with the effects of a natural disaster is tremendous. Natural disasters may be used as an excuse to take action that violates certain human rights, but not all of them, under the parameters outlined by international human rights law, providing they qualify as a public emergency endangering the country. The aforementioned provisions also apply to situations when human rights must be subject to specific limitations due to a natural disaster. Contrary to the emergency situation based on underdevelopment, natural catastrophe situations have not historically been the focus of many debates from the standpoint of human rights. This may be because such events more closely resemble the circumstances covered by the international agreements and hence have a better possibility of being handled by the appropriate organizations.

DISCUSSION

The junction of "Emergency Arising from Natural Catastrophes" and "Human Rights" offers an engaging and complex dialogue that probes the complex dynamics of catastrophe response, human dignity, and ethical duties. Natural disasters like earthquakes, hurricanes, and tsunamis have the power to wreak extensive destruction, disrupt communities, and strain the capabilities of emergency services and governments. In the midst of the confusion, the human rights perspective plays a crucial role in directing and assessing the efficacy of response operations.

The understanding that natural disaster-related situations often increase societal disparities and vulnerabilities is at the core of this debate. Due to their restricted access to resources, knowledge, and decision-making authority, marginalized groups, such as the poor, elderly, crippled, and minority communities, sometimes suffer disproportionately. This hypothetical situation highlights how crucial it is to make sure that emergency responses are inclusive, non-discriminatory, and mindful of the various needs and rights of all people.

International treaties and accords that uphold human rights values provide a foundation for developing and accessing disaster response plans. These values emphasize the need for basic requirements, nondiscrimination, and protection against inhumane treatment. Following these principles necessitates giving immediate safety and wellbeing of impacted populations first priority while also taking into account the long-term effects of disaster-induced events on people's livelihoods and general standard of living [4]–[6].Balancing the requirement for emergency public safety and security with the protection of civil rights is a significant difficulty.

Governments may impose limitations on mobility, gathering, and communication during natural disasters in the name of disaster management. To avoid violations of human rights, it is vital to make sure that such measures are proportionate, brief, and not unreasonably restrictive. They must also retain openness and accountability. The post-disaster recovery and rebuilding initiatives are also discussed, going beyond the first phase of reaction. Human rights fundamentals continue to be important in ensuring that reconstruction efforts are fair, long-lasting, and support the restoration of human dignity. In addition to being crucial for recovery, access to decent housing, education, healthcare, and work prospects is also crucial for preserving human rights in the aftermath of disaster. Furthermore, from a human rights standpoint, international collaboration is crucial in disaster response. Sharing resources, skills, and information makes response efforts more successful and supports the idea that human rights standards apply to everyone [7]–[9].

CONCLUSION

In the end, the connection between human rights issues and natural disasters serves as an example of the conflict between compassion and justice. We are reminded that the pursuit of human rights is not postponed but rather increased in the face of hardship as we traverse the daunting obstacles provided by nature's upheavals. By adhering to these values, we not only lessen suffering but also pave the way for a society that is more diverse, compassionate, and respectful of human rights, where even the most hopeless circumstances may be lit by the beacon of human dignity.The idea that safeguarding human rights transcends borders and political divisions is underscored by the global community's combined commitment to helping impacted countries.

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CHAPTER 11

ARMED CONFLICTS AND INTERNAL DISTURBANCES ENDING IN AN EMERGENCY

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ABSTRACT:

The subject "Armed Conflicts and Internal Disturbances Ending in an Emergency: Human Rights" is well summarized in the abstract. This article explores the complex interactions that arise when military conflicts, internal unrest, disasters, and human rights issues come into play. It looks at the difficulties that develop when violence, whether brought on by war or domestic dissent, results in crises that call for quick action. The debate focuses on how to strike a balance between safeguarding human rights ideals and addressing the need of preserving public safety and order in turbulent times. The variety of possibilities that may occur, such as armed wars that worsen to the point where communities are at risk and domestic unrest that endangers public safety. It examines how international human rights principles are applied in these situations and explores how emergency measures may affect people's rights, often creating difficult moral choices. The importance of distinguishing between the use of force by state actors and non-state actors alike that is justifiable and that is not. It examines the ramifications of using emergency measures to deal with military conflicts and domestic unrest, highlighting the necessity for a balanced response that upholds basic rights even in urgent situations.

KEYWORDS:

Armed Conflicts, Detainee Rights,Internal Disturbances, Public Order, Transitional Justice.

INTRODUCTION

While natural disasters are primarily the result of the violence of nature, which is frequently made worse by conditions of under-development, and while under-development is frequently regarded as a form of structural violence, the emergency situation that is the focus of the third part of this chapter concerns the direct and open violence of individuals and groups. Municipal law establishes rules for behavior under the authority of the State, which has exclusive use of force. The use of force that is not sanctioned by the State is seen as an aberration in respect to the legal system under consideration, according to the logic of this system. However, the internal legal framework may have been established on grounds of human rights abuses. Is the use of violence against the State committed with the intention of defending human rights recognized by international human rights law? Are there restrictions on the use of force by the State that are mandated by international human rights law? These are the kinds of issues that come up when one looks at how violence and human rights interact. between human rights and violence.

The Universal Declaration's authors did not ignore the conflict between human rights and violence. According to the third preambular paragraph, "it is important that human rights be preserved by the rule of law if man is not to be forced to resort, as a last option, to revolt against tyranny and persecution [1]–[3]. Of course, the concept is nothing new. The following paragraph from Vattel, written in the middle of the 18th century, demonstrates the tradition of the right of resistance without going all the way back to Socrates' Apology: ".

All sensible men have a right to seek to eradicate those monstrosities from the planet who, while wearing the title of sovereigns, make themselves the curse and terror of humanity. The 1948 Universal Declaration is largely the expression of a campaign to maintain peace for all time, while the French Declaration of 1789, particularly that of 1793, as well as the United States Declaration of Independence establish the right to rebel in a revolutionary context. As defined by international human rights law, human rights include two dimensions that make it easier to understand their relationship to violence: oppression is the negation of civil and political rights through direct or structural violence; misery is the negation of rights, primarily through structural violence. However, in an international "order" where law is the result of power relations, peace founded in injustice and violation of human rights cannot last and invariably leads to violence.

Institutions for the protection of human rights that adhere to international conventions may be able to mitigate some of the effects of such structures, but they are powerless to effect the political changes required for oppression and hardship to end on their own. Violence is often used to bring about such reforms, and this is the key difference between violence and human rights. In order to understand violence from the perspective of the international dimensions of human rights, four types of situations should be distinguished: international disturbances and tensions, internal armed conflict, wars of national liberation, and international terrorism. Political science, in particular, has developed typologies, models, and indicators which distinguish between the different manifestations of violence.

Tensions and Disruptions Inside

When individuals or organizations engage in non-organized violence, or violent actions that do not qualify as military operations carried out in line with a planned plan, the public order is put in danger. From the perspective of international human rights law, there are no a priori reasons for seeing such a circumstance as justifying a departure from the relevant norms. Such offenses are often punished in line with a national criminal law. Similar to how internal conflicts brought on by rival political groups that do not include military action do not call for the use of emergency measures. The international instruments only provide for the possibility of deviating from the generally applicable standards when internal disturbances pose a genuine danger to the survival of the country. In reality, the issue at hand is one of solution evaluation, which is mostly dependent on national authorities and, where necessary, on the governing organ's case law under international agreements. There might be issues with mass arrests of people accused of political crimes in instances of internal unrest that do not amount to an emergency scenario.

The "Standard Minimum Rules for the Treatment of Prisoners" issued by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in its Resolution of August 30, 1955, are special international standards that have been developed to strengthen the protection of prisoners. These regulations aim to outline "what is generally recognized as being good principle and practice in the treatment of prisoners and the management of institutions," without, however, outlawing novel approaches or procedures as long as they adhere to the rules governing the protection of human dignity. The rights to make requests or complaints to the prison administration are also recognized [4]–[6].

Special rules are set forth for specific categories of prisoners and people who are detained. These rules include non-discrimination, freedom of religion, respect for human dignity, and a whole host of standards concerning the distribution of prisoners, housing, hygiene, discipline, etc. The Fifth and Sixth United Nations Congresses, which were held in Geneva in September 1975 and Caracas in September 198065, both had the application of these norms on their

agendas, and other standard-setting initiatives have greatly complemented them. The Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a set of principles for the protection of all persons under any form of detention or imprisonment, and a set of medical ethics principles pertinent to the role of health personnel in the protection of persons against torture and other cruel, inhuman or degrading treatment or punishment are among the draft instruments that are, hopefully, soon to be widely accepted. During times of internal unrest, a few clauses of the universal human rights agreements take on a special significance.

These include the right to be defended, the prohibition of torture and other cruel, inhumane, or degrading treatment or punishment, freedom of association, and guarantees of a fair trial, including that criminal laws won't be applied retroactively. Cases demonstrating the disregard for fundamental rights during times of domestic unrest occur every day, in every corner of the globe. Since international human rights law has advanced to this point, it is now possible to consider that a state's failure to uphold the human rights provisions that apply in these circumstances violates its responsibility under the United Nations Charter to encourage respect for and observance of human rights. Armed conflicts without an international component When a conflict takes on the form of an armed conflict, the nation's existence is instantly seen to be in danger, allowing the derogation provisions to be used. All human rights laws from which there can be no deviation still apply in these circumstances. The specific law of non-international armed conflicts, which is a part of humanitarian law and is described elsewhere, confirms or supplements these standards. Despite the fact that the Geneva Conventions' authors were influenced by the Universal Declaration, the systems of international human rights law and humanitarian law approach the issue of internal armed conflicts in different ways. The first fits within the parameters of jzhs ad bellum as envisioned by the United Nations Charter, which forbids the use of force and is thus intended to preserve peace.

The second, on the other hand, is a component of jus in hello because it defines guidelines for the use of force without considering the factors that led to the conflict, in line with the Red Cross's ideals, particularly the principles of humanity. Modern humanitarian law does not only apply in conventional war situations; it also specifies standards for "armed conflict not of an international character occurring in the territory of one of the High Contracting Parties" in Article 3 of the four Geneva Conventions of 12 August 1949. According to the commentary on the Geneva Conventions, Article 3 "ensures at least the application of humanitarian rules recognized as being essential by civilized societies." Depending on how they are read in light of other Convention provisions pertaining to "human treatment," as advised in the commentary, these regulations may have a narrower or wider reach. Additionally, "the Parties to the Conflict should" be spelled out. The ICRC examined this issue at expert meetings (1953, 1955, 1962, and 1969), International Conferences of the Red Cross (Istanbul, 1969; Teheran, 1972), a consultation.

The ICRC was aware of both the difficulties involved in having a common article 3 applied by the parties to an internal conflict and of the need to expand the list of the recognized rights. By recognizing "the need for additional international humanitarian conventions or for possible revision of existing Conventions to ensure the better protection of civilians, prisoners, and combatants in all armed conflicts," the United Nations Conference on Human Rights of 1968 marked a turning point in this regard. The Swiss Federal Government organized the Diplomatic Conference on "the reaffirmation and development of international humanitarian law applicable in armed conflicts," which met in 1974, 1975, 1976, and 1977, in this context.

It also requested the Secretary-General, after consulting with the ICRC, to draw Member States' attention to the rules existing on the subject. The ICRC put a lot of effort into becoming ready for the issue of non-international conflicts76. The "fundamental guarantees" are outlined in Articles. As a result of this effort, one of the two supplementary Protocols to the Geneva Conventions that expressly addresses the protection of victims of non-international armed conflicts was written. Additionally, special guidelines for people who are deprived of their freedom are outlined in Article 5 of the Protocol, and fundamental principles of penal law are reiterated, including the ban on retroactive laws and punishments, the presumption of innocence, the prohibition against self-incrimination, and the right to appear at a trial with all relevant rights and means of defense. Wars of liberation Despite the fact that the authors of the 1949 Geneva Conventions did not establish specific guidelines for armed conflicts in which one party asserts that it is exercising its right to self-determination, the delegates to the 1974-1977 Diplomatic Conference and the ICRC gave special attention to this issue, probably because the States taking part in the Conference were more numerous and less European in 1974 than they were in 1949 and several of them had recently undergone a number of liberation operations.

The presence of observers from liberation groups involved in battle and the debate that developed in relation to some of these movements served as further evidence of the significance of this issue. The right of peoples to self-determination is inextricably linked to the international aspects of human rights; in fact, it is incorporated among the objectives and principles of the United Nations (Articles 1 and 2 of the Charter) and has been repeatedly reaffirmed in the context of human rights. "The subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights," the Declaration on the Granting of Independence to Colonial Countries and Peoples states in its first sentence. The United Nations General Assembly has insisted for several years that the rules of humanitarian law should apply to combatants in movements engaged in the struggle of peoples laboring under the yoke of colonial and foreign domination to secure their liberation and self-determination. Consequently, the first phase consisted in granting to combatants in liberation movements access to the two 1966 Covenants, which reaffirm this right in Article 1 and discuss it in more detail in another chapter.7g This was the goal of the ICRC's proposal to the Diplomatic Conference that would have included the following language to Article 42. New category of prisoners of war. As it relates to giving liberation wars a legal standing by classifying them as international armed conflicts for the purposes of applying the Geneva Conventions, doctrine is split on the issue. Aware of these differences in opinion, the ICRC decided that the above-quoted draft paragraph 3 of Article 42 of Draft Protocol I was sufficient and that mentioning liberation battles in the section dedicated to the Protocol's scope was inappropriate. However, the Committee in charge of Protocol I's Article 1 (general principles) felt that it was insufficient. If a significant number of States ratify the Protocol, which contains this provision in its article 1, paragraph 4, there will be no longer be any question regarding the applicability of the standards of international law relating to the protection of victims of international armed conflicts to liberation wars. According to article 2 of the four Geneva Conventions, when two or more Contracting Parties are involved in an armed conflict, all of its rules apply, "even if the state of war is not recognized by one of them." Additionally, they must be followed "in all instances of partial or complete occupation of the territory of a High Contracting Party, even in the absence of armed resistance." A summary of these standards is provided in another chapter 4, and for a more in-depth analysis, references must be made to the travaux préparatoires, the actual texts of the Conventions, the Additional Protocols, the ICRC's Commentary, the standard treatises on the law of war, and humanitarian law.

It is important to keep in mind, however, that some of the standards of humanitarian law applicable in international cooperation are relevant for the purposes of this chapter. These rules are generally intended to make sure that "the belligerents shall not inflict on their adversaries harm out of proportion to the object of warfare which is to destroy or weaken the military strength of the enemy." 8g Some of these rules are governed by the so-called law of the Hague (principally by Convention No. IV of 1907, which was signed at the Hague, and by the Regulations that were annexed to that Convention), whose guiding principle is that "the belligerents do not have an unlimited choice of means of inflicting damage on the enemy"; while others are governed by the so-called law of Geneva (principally by the Conventions of 1949, which the temptation is to draw the cynical conclusion that in their view, military needs will always take precedence above humanitarian principles. However, experience demonstrates that it is not difficult to balance humanitarian concerns with military requirements and to include the armed forces, who are more familiar than anyone with the tragedy of war, in this mission. The fact that more than 150 countries have ratified the Geneva Conventions and that the additional Protocols entered into force on December 7, 1978, show that almost all military and diplomatic authorities want to see military requirements and humanitarian principles reconciled, at least at the level of legal commitment. These humanitarian law rules provide a source of hope for those who have been affected by armed conflicts as long as their root causes have not been resolved; nonetheless, their successful implementation relies on both their widespread adoption and the political determination of the parties to the war to uphold them. A number of more specific principles that apply to the various categories of war victims are derived from the very general principles mentioned above, including principles pertaining to the treatment of prisoners of war (Conventions I and II), the protection of civilians (Convention IV), and the protection of the wounded, sick, and shipwrecked. A soldier who has been taken out of the line of fire must be provided with refuge and given compassionate treatment.

Except in cases of urgent emergency, all patients are to get equal access to medical treatment. Medical and religious staff must adhere to absolute military neutrality, but they must not be hindered from carrying out their duties. If they end up in the hands of the enemy, that party is only permitted to keep them if doing so is necessary to meet the medical and religious requirements of prisoners of war; otherwise, return home is the norm. Such professionals benefit from specific facilities for carrying out their duties even while in custody. Other clauses in Conventions I and II deal with the distribution of medical aid by civilians and relief organizations, the immunity of medical buildings and institutions, the distribution of medical supplies, the mode of transportation, and the unique insignia. The detaining Power must treat prisoners of war (POWs) humanely, respect their persons and their honor, and cannot transfer them to the territory of a nation that is not a party to the Convention.

The only information a POW is required to provide is his surname, first names, age, rank, and regimental number. The internment facilities must be comfortable, and life must be planned there to sustain the physical and emotional well-being of POWs. This includes providing enough food and medical attention, as well as the opportunity for religious practice and participation in academic and athletic pursuits. Work, money, relationships with the outside world and the authorities, punishment, and repatriation are all governed by certain rules. The Convention must be posted in order for POWs to be aware of these requirements. Finally, the 159 articles of Convention IV contain norms relating to the protection of civilians. While "safety zones," intended for injured, ill, and disabled persons, expectant mothers, women with young children, and aged persons, have not been established as the Convention provides (but without making it an obligation), it may occasionally be possible to establish a "neutralized zone" in the area where fighting is taking place for the protection of civilians. In addition to

these protections, non-combatants who are injured or ill, the elderly, and expecting women are entitled to special protection and respect. All civilians have the right to communicate with their relatives and receive news from them, and civilian hospitals and their staff are safeguarded. Protected individuals may not be coerced into providing information, and it is specifically prohibited to put them through physical pain ("not only murder, torture, corporal punishment, mutilation, and medical and scientific experiments not necessary in the course of providing medical treatment to a protected individual, but also. any other measures of brutality whether applied by civilian or military agents").

Additionally forbidden are hostage-taking and plunder. These are only a few instances of the laws governing the status and treatment of protected people as well as the general protection of communities from the repercussions of war. Other articles of the Convention deal more specifically with internee treatment, occupied regions, and foreigners on the territory of a party to the war. The Diplomatic Conference and the ICRC have worked to create policies that will safeguard those who have been harmed in international military conflicts. In particular, Protocol I, which complements the Geneva Conventions, addresses this topic with reference to injured, ill, and shipwrecked soldiers, fighting tactics and equipment, the status of prisoners of war, and the civilian populace. Some of the protective standards outlined in the Protocol are especially pertinent to human rights.

For instance, Article 11 safeguards the physical and mental well of those who are protected and forbids, in particular, experiments in medicine or science that are not supported by medical care. According to Article 16, no one who engages in medical activity that is compliant with professional ethics may be penalized for doing so, forced to behave unethically, or required to provide information about the opposing party. Retaliation against the ill, the injured, or medical professionals is also forbidden (Article 20). The following fundamental guidelines for fighting tactics are reiterated in Article 35. In addition, perfidy (Article 37), refusing to yield (Article 40), and attacking an adversary hors de battle (Article 41) is forbidden. The fundamental guideline for treating civilians with respect states that "the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objects and, accordingly, shall direct their operations only against military objectives" (Article 48). In addition, "indiscriminate attacks," "reprisals," and "acts or threats of violence whose primary purpose is to sow terror among the civilian population" are also forbidden (Article 51). They are subject to the standards of humane treatment covered by Articles 27, 31, 32, 33, and 34 of the Fourth Convention, which are reiterated in Article 4 of Protocol. Article 75 lists the fundamental guarantees enjoyed by civilians in the power of a Party to the conflict and not protected by the Geneva Conventions, namely nationals of the interested Party to the conflict and combatants who do not fulfill the conditions necessary for them to be considered prisoners of war. Last but not least, specific measures are outlined in sections 76–78 for women and kids.

The Applicable Norms and The Notion of JUS COGENS

It is therefore obvious that the various acts of violence under consideration need the application of standards from either international human rights law (IHRL) or international law of armed conflicts (ILAC), or from both at once. As a situation approaches war, such as when, for example, assaults on life caused by "lawful acts of war" are permissible, the amount of protection provided by IHRL decreases from its peak during times of peace. As a result, the amount of protection provided by ILAC is somewhat constrained during times of peace (duty to spread the Conventions, to amend laws, etc.), but is greatly expanded during times of international conflict. In Table II, the connection between the two systems is shown graphically. Approximately during the time of civil war, the two curves intersect.

For IHRL, this refers to a state of public emergency endangering the survival of the country, during which only non-derogatable rules may be enforced. According to ILAC, the circumstance is one in which both article 4 of Protocol II and common article 3 of the Geneva Conventions are applicable. In other words, the lowest norms of the two systems are applicable when the two curves overlap. Table II further demonstrates that the degree of protection provided by IHRL and ILAC never falls below observance of jus cogens rules. What does this mean?

The idea of jus cogens is based on the legal consequences of a rule possessing the character of jus cogens, as stated in articles 44, 53, 60, and 64 of the Vienna Convention on the Law of Treaties and in the discussions of the International Law Commission. A standard that has been accepted and acknowledged by the international community of States as one from which no deviation is authorized and which may only be amended by a future rule of the same kind is at issue, according to article 53 of the Vienna Convention. Several attendees to the 1949 Diplomatic Conference had this idea about the essence of the Geneva Conventions' rules.""

Several articles may also be read in this way since they are objective in nature and because they create obligations without a contractual component. Common Article 3 establishes urgent standards that are applicable "at any time and in any place," according to the Commentary. Similar to this, the IHRL's provisions pertaining to emergencies have the effect of restricting the ability of the contracting States to stop applying specific articles. Examining the substance of the rules is another way to approach the idea of jus cogens. For instance, Professor Verdross lists "all norms of general international law created for humanitarian purpose" as one of the jus cogens norms.

The subject of the "imperative character in respect of the norms of international law Gus cogens) of the principles relating to the protection of the human person contained in the Geneva Conventions" has been noted by the International Law Association as needing an urgent resolution. It would be untrue to assert that all ILAC standards and all IHRL rights, from which there can be no deviation, have the status of jus cogens.

Although Rosalyn Higgins acknowledges that "there certainly exists a consensus that certain rights-the right to life, the freedom from slavery or torture-are so fundamental that no derogation may be made," she claims that "neither the wording of the various human rights instruments nor the practice thereunder led to the view that all human rights are jus cogeas." In fact, to overlook certain IHRL and ILAC standards as imperative standards with the status of jus cogens would be to ignore the clear legal implications of a number of documents and the basic nature, uncontested by the international community, of a number of principles.

The interface of these norms is shown in Table III below, which highlights in particular how some norms that are considered fundamental in IHRL are not in ILAC and vice versa, while other norms are shared by IHRL and ILAC and frequently also have the characteristics of jus cogens (JC) [7]–[9].

DISCUSSION

The topic of "Armed Conflicts and Internal Disturbances Ending in an Emergency: Human Rights" explores the complex and sometimes difficult relationship between armed conflicts, internal disturbances, crises, and the protection of human rights. This intricate interconnection emphasizes the fine line that must be drawn between preserving law and order, guaranteeing security, and respecting basic human rights during unrest. Whether brought on by political, social, or economic grievances, armed conflicts and domestic unrest have the potential to turn into crises that need for prompt action from authorities. The danger

to the existing order might result from the escalation of violence, forcing the adoption of extraordinary measures to restore stability. To avoid excessive violations of individual rights and stop subsequent injustices, these measures must be implemented in accordance with human rights principles. Finding the response's proportionality is a substantial difficulty. Even while using force to stop violence is sometimes required, it must be wisely used and in accordance with human rights laws. While the concept of proportionality requires that the expected damage inflicted by the use of force must not exceed the advantages achieved, the principle of necessity states that any force used should be the absolute minimum necessary to accomplish the desired result. To prevent needless injury to people and to guarantee that emergency actions do not result in further human rights breaches, it is crucial to strike this balance. The topic of treatment of people, especially those who are jailed or imprisoned, during military wars and internal uprisings is also covered. Even in emergency situations, the principles of human rights, such as the "Standard Minimum Rules for the Treatment of Prisoners," offer a foundation for preserving respect for life, access to health care, and freedom from torture or other harsh treatment. A state's commitment to upholding human rights in times of crisis is put to the test by ensuring that prisoners are handled in accordance with these standards. Holding nations responsible for their behavior during crises is made possible in large part by international human rights legislation. Even when reacting to military conflicts or internal commotions, the values of non-discrimination, due process, and access to remedies remain relevant. No matter how urgent the circumstance, national governments are required to uphold these norms since doing so might result in the suspension of democratic principles and the misuse of power.

CONCLUSION

The complicated subject of transitional justice in post-conflict situations is further highlighted in the conversation. As crises pass, it is important to examine any human rights breaches that may have taken place. It becomes a complex undertaking to strike a balance between the need for justice and the imperatives of healing and rebuilding, requiring careful consideration of truth-seeking, accountability, reparations, and institutional transformation.The debate highlights the moral and practical issues that emerge when military conflicts and internal commotions turn into crises in its conclusion. The need of upholding human rights is emphasized despite the fact that certain circumstances may call for extraordinary actions due to their urgency. Even in the most unsettling of times, achieving a balance between upholding the rule of law and upholding human rights involves more than just a robust legal system. It also calls for a strong commitment to moral principles and everyone's well-being.

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CHAPTER 12

AN OVERVIEW OF JOBS AND ACTIVITIES OF HUMAN RIGHTS

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ABSTRACT:

This article offers a thorough examination of the many duties and activities carried out by organizations dedicated to advancing and defending human rights. The debate dives into the wide range of activities that fall within the purview of the human rights domain, from information collecting and investigation through negotiation, judgment, and sanction implementation. It emphasizes how crucial these initiatives are to ensure that human rights are effectively regulated and protected on a global as well as a national level. The paper highlights the necessity for unified and coordinated efforts in the pursuit of human rights advocacy and enforcement by shedding light on possible faults and job overlaps within current human rights protection organizations. In the end, the overview offers a fundamental understanding of the crucial tasks performed by organizations committed to defending the fundamentals of human rights in a range of situations.

KEYWORDS:

Activities, Jobs, Decision-making, Human Rights, Institutions, Information Gathering.

INTRODUCTION

Institutions in charge of putting human rights into practice are often given one of two roles, though seldom both at once: promoting human rights or protecting human rights. This difference is so well-known on a global scale that the justifications for it often become hazy; as a result, it has to be explained before it can be used to an evaluation of current institutions. Advancing and defending human rights Roman law-based states' use of the word "promotion" to designate a component of American corporate culture sales promotion has only lately gained traction in these states. Admittedly, these States were already acquainted with "social promotion" the attempt to refute the Marxist theory that society is divided into perpetually warring classes by legislative changes. The idea of promotion as it relates to human rights has maintained a distinct Anglo-Saxon overtone, particularly American. It presented a challenge for the authors of international literature on human rights for a long time since they translated it into French as progress or development.

The Job of Institutions for Human Rights

Eventually, it was decided not to make any translation attempts and to just use the original term, which is after all a perfectly acceptable form of French. The promotion of human rights entails action that is steadfastly focused on the future. The issue of human rights is seen as having a gap in it because not all of them are guaranteed under national law or international law, or they are only partially guaranteed, or because neither the people who are entitled to them nor the States and their subsidiary bodies, which are obligated to uphold them, sufficiently understand them. In these cases, a group working to advance human rights will make an effort to identify deficiencies and even violations, but less so that they may be sanctioned and more so that they can be avoided in the future. In many ways, the "protection" of human rights seems to have an opposing goal. The institution for protection, which is meant to guarantee the compliance of human rights as defined by current law, really works to

assure the continuation of the past via the punishments that protection inevitably results in. It primarily depends on the legal system, but the institution will utilize every legislative tool at its disposal to promote itself, including studies, research, reports, and the creation of documents. It is not surprising that communist nations, which believe modern law and society are doomed, have consistently shown, on a global scale, a definite preference for institutions that advance human rights.4 Similar to this, protecting human rights in developed nations would entail agreeing that people should live there in the same manner as they do today, when it is first required, if not to create them, then at the very least to modify them [1]–[3].

However, despite what our study would lead you to believe, the conflict between promotion and protection stated above is not as intractable as it first seems. Promotion is clearly the first and most important step that leads to protection; otherwise, it would just produce the "blue-sky laws," which are well-known in Latin America, and wouldn't really qualify as promotion at all. Furthermore, there are other instances that demonstrate how national protection is a result of international human rights advancement. The preservation of human rights also has the opposite effect of what one would expect since it eventually exposes inequalities and gaps in society, forcing the government to take action. Should there be a blurring of the lines between human rights advocacy and protection? The answer appears to be "no," at least on a global scale, because it is a realistic distinction that calls for progress to be made in stages, in accordance with the political, social, and legal development of the States that are members of the international community; it also allows for justice to be done to some organizations that promote human rights, like the United Nations Commission on Human Rights, which is all-too-often judged by standards that are applicable to organizations that promote human rights.

Institutions for the advancement and defense of human rights Applying the standards for promoting and defending human rights to existing institutions leads to a number of findings.

i) National human rights institutions are typically protective organizations; they are seldom ones that work to advance human rights. Therefore, the issue of whether each state should establish a capable organization in charge of planning the human rights reforms necessitated by social advancements emerges. Such a body has previously been established in some nations for a significant area of law or for the law in general (such as the Law Reform Commission in the United Kingdom). National Commissions on Human Rights, whose creation has often been advocated, both at the OAS and the UN, and which might function similarly to the National Commissions for UNESCO, may therefore play a role that is deserving of them.

ii) Organizations for advancing and defending human rights are equally essential on a global scale; in fact, while the European Commission and Court of Human Rights are bodies of supreme protection, their work had to be swiftly complemented by that of an organization for advancing rights, the Committee of Experts on Human Rights, which initially functioned as an ad hoc group before becoming a permanent one.

iii) If an international organization working to advance human rights is successful, it will inevitably take on the responsibility of defense. The Inter-American Commission on Human Rights, which was founded in 1960 with the sole purpose of promoting human rights, has undergone a particularly dramatic transformation. Today, aside from the legal basis for its authority, there is nothing that distinguishes it from its European counterpart. However, the United Nations Commission on Human Rights is experiencing the same change, particularly since its 23rd session in 1967. It is no accident that this

development occurred at the same time as the Commission's expansion and the admission of representatives from numerous newly independent states.

iv) In the beginning, that is, immediately following the Second World War, the characteristic that set apart a body for the protection of human rights from one for their promotion was the action that the latter took on individual petitions; this assumption assumed that the procedure for such petitions was the only way in which human rights could be protected. It took a long time for those who were concerned to succeed in breaking out of the vicious cycle that resulted from equating a body for the protection of human rights with a body qualified to examine, as a court, individual petitions.

The concerned parties had almost voluntarily imprisoned themselves in this vicious circle. The right of individual petition can be reduced to a right to an ordinary petition or to a mere source of information without lessening the effectiveness of the protection, as is now understood. This means that it is not always necessary to put a State on trial and then condemn it in order to protect human rights. The Inter-American Commission on Human Rights' and other United Nations agencies' experiences with petitions seem to support this.

The Activities Conducted by Institutions for Human Rights

Information, investigation, conciliation, decision-making, and penalty are the five tasks that human rights organizations may carry out, which together make up a whole system for the regulation of the respect of human rights. Indeed, only when all five of these duties are completely carried out on an international level can human rights be adequately preserved. Based on these functional principles, a review of the current human rights protection institutions reveals several flaws as well as appalling task duplication.

Information

There are several international organizations that gather data on the status of human rights in different nations. For instance, the United Nations produces a Human Rights Yearbook based on such data. The periodic reports method should also be mentioned as it has a tendency to reflect a common law that is generally applicable in the international monitoring of the execution of commitments made by States in the area of human rights. Additionally, this process falls somewhere in the middle between the roles of information and research according to the potential outcomes. The UN did not succeed in perfecting the system established by Economic and Social Council Resolution 624 B (XXII) until the late 1960s, whereas UNESCO bases its approach on a specific provision of its constitution. The International Labour Organization was the pioneer in the procedure. Similar mechanisms have been established by regional organizations like the Organization of American States and the Council of Europe (Article 57 of the European Convention on Human Rights and Resolution XXII of the Second Extraordinary Inter-American Conference in Rio de Janeiro, respectively). But in this case, the risk of repetition is extremely obvious.

Investigation

Fewer human rights organizations are in charge of conducting investigations. These may be temporary organizations established in response to a particular need (such as the fact-finding mission of the United Nations General Assembly to Vietnam to look into the situation of the Buddhists or the ad hoc group of the United Nations Commission on Human Rights tasked with looking into the situation of prisoners and detainees in South Africa) or ongoing organizations established in accordance with a convention or similar instrument. The second type, which in the past was exceptional, will now be able to become standard procedure

within the UN (the Human Rights Committee established under the Covenant on Civil and Political Rights and the Committee on the Elimination of Racial Discrimination established under the Convention of the same name). There are numerous such organizations, including the Commission of Inquiry established under Article 28 of the International Labour Organization's Constitution, the Governing Body's Committee on Association Freedom, and the Fact-Finding and Conciliation Commission on Association Freedom, as well as two regional organizations, the Council of Europe and the Organization of American States, which both have Commissions on Human Rights.

Who can start the process is obviously the most important factor here. It is never the investigative body itself and seldom ever a person; instead, it is often the government (although in certain situations, it could be helpful if it were, if only to ensure that the Rule of Law prevails in the area of human rights). The various investigative bodies use quite different procedures. Even while the decisions made by international human rights agencies are based on strong convictions, they are also the result of processes that often leave much to be desired and are thus not always convincing. Even though it is impossible to harmonize the rules (generally inferred from practice) governing the admission of evidence, those rules could at least be scrutinized in light of the following factors: the privileges and immunities enjoyed by witnesses (cf. the incidents that followed the IL0 investigation in Chile); the hearing of all parties involved in the investigation; the involvement of third parties in the process, etc.

Conciliation

States are prone to seek shelter in the realm of conciliation because they see the decision-making process as infringing upon their sovereignty. All institutions in charge of conducting investigations are concurrently given the option of wrapping up their work via an effort at conciliation. The goal is admirable in that it makes it feasible to avoid decisions that harm a state’s reputation in a sphere where the political element still retains some of its rights. However, conciliation as it pertains to human rights is rather paradoxical in that it implies that these rights may be "negotiated" while being holy and inviolable. Therefore, it would be important to emphasize the boundaries of conciliatory proceedings that are consistent with the protection of human rights, boundaries that the European Commission for Human Rights, in particular, has been forced to establish each time it has approved the amicable resolution of a case brought before it.

Decision

There are now relatively few human rights organizations with decision-making authority, especially when it comes to court judgements. In this regard, only the European Court of Human Rights and the Inter-American Court of Human Rights may be considered, and even their authority is debatable since it depends on the States' affirmative consent. When the Council of Europe's Committee of Ministers was compelled, in line with Article 32 of the Rome Convention, to decide a case's merits rather than the Court, it did not attempt to disassociate itself from its political nature, but rather the exact opposite. Although it is technically a decision, the act that ends the process (by "resolution" rather than "decision") often resembles a political settlement and is quite different from the ruling that the Court would have rendered in the same case. But it would be wrong to adopt a strictly legalistic perspective and undervalue the importance of organizations that just issue "recommendations" rather than choices. A suggestion may prove to be as significant as a decision, depending on the steps taken to implement it, while also being more acceptable to the State to whom it is directed [4]–[6].

Sanctions

There are no human rights organizations with the authority to inflict penalties. According to Article 50 of the Convention, even the European Court of Human Rights may only provide the victim of a breach reasonable satisfaction, which is typically compensation, and only under certain, clearly stated circumstances. Therefore, consequences for human rights infractions may only be applied within a political context. The futile attempts to get South Africa to abandon practices that blatantly violate all notions of human rights are the best evidence that this situation is unsatisfactory. In response, the lawyer may only work harder to use the one tool at his disposal: public opinion. In the end, public opinion has the power to inflict the most severe penalties on a recalcitrant State by expelling it from the international community.

Human Rights Institutions Area of Activity

The national institutions, which are obviously the most numerous, have the greatest load and should bear it. The Soviet Procuratura, the Scandinavian Ombudsman, the French Conseil d'Etat, and the Japanese Bureau of Civil Liberties are a few notable instances, but clearly not all can be named here. This has been acknowledged by the United Nations. Similar to the English habeas corpus, the Mexican amparo, and the Brazilian mandato de seguranza, several processes have gained popularity due to their reputation as reliable protections.

While it is doubtful that regional institutions will be incorporated into a universal system very soon, they now have the prestige that their nature merits after initially being seen as interfering with interactions between the United Nations and its Member States. The Inter-American Commission on Human Rights, the European Social Charter, and the bodies of the European Convention on Human Rights may all be mentioned here. In this regard, it would be prudent to assess favorably the regularly made suggestions for the creation of human rights commissions in regions where none already exist.

There are already a number of universal institutions within the United Nations (Commission on Human Rights, with its Sub-Commission on Prevention of Discrimination and Protection of Minorities, Commission on the Status of Women, the Committee on the Elimination of Racial Discrimination established under the terms of the 1965 Convention, Human Rights Committee, etc.), within the International Labour Organization (bodies responsible for keeping under review the application of the 1965 Convention), and within the World Health Organization. A body capable of handling human rights on a global scale without regard to the level national, regional, or universal at which these rights function must be established in light of this proliferation of institutions. A United Nations High Commissioner for Human Rights, whose creation has been suggested in light of the precedent set by the protection of refugees, would be seen as having a positive role to play in this. There have been many heated discussions around the notion of a UN High Commissioner for Human Rights.

The initiative seems to have failed, at least temporarily, inasmuch as the office of the United Nations High Commissioner was supposed to be an organization for the protection of human rights and hence a method of addressing human rights breaches. Furthermore, it must be acknowledged that, despite their flaws, the application of the Covenants on Human Rights, the creation of procedures in accordance with ECOSOC Resolutions 1235 and 1503, and the Convention on the Elimination of Racial Discrimination all significantly lessen the importance of the project to appoint a High Commissioner for Human Rights. While this is happening, a new, albeit distinct, justification for the project to appoint a High Commissioner is provided by the development of the global character of human rights (especially as regards human rights norms), accompanied by tendencies towards dispersion (especially as regards

the implementation of those norms). In order to increase effectiveness and prevent duplication of work and procedures, what is needed right now is likely not so much a man as an institution (a Commissioner's Office rather than a Commissioner), with the dual functions of: a) coordinating all human rights machinery, bodies, and procedures operating both at the global level (the United Nations, on the one hand, and specialized agencies, on the other), and at the regional level; and b) considering reforms to existing human rights laws.

DISCUSSION

The topic of "Jobs and Activities of Human Rights" explores the complex range of duties carried out by institutions and organizations committed to advancing, defending, and advocating for human rights on a local, national, and global scale. Regardless of one's origin or circumstances, these complex responsibilities are essential for maintaining one's sense of dignity, equality, and wellbeing. Information collecting is one of the key tasks in the human rights field. Institutions frequently gather information on breaches of human rights, discrimination, and inequities, giving them a thorough awareness of the difficulties people and communities confront. Effective lobbying tactics and well-informed decision-making are based on this data. Investigation immediately follows, during which claims of violations of human rights are carefully evaluated to ascertain their truthfulness, allowing prompt interventions and legal measures [7]–[9].Institutions dedicated to advancing human rights have a considerable influence on decisions. These organizations often have the power to rule on matters involving violations of human rights, which helps to hold offenders responsible and provide victims' justice. In addition to supporting the ideas of equality and non-discrimination, this role maintains the rule of law.

When judged essential, fines are imposed in order to discourage infringement of human rights. Sanctions, penalties, and other forms of punishment may be used to make people, groups, or nations answerable for their deeds. This method of enforcement emphasizes how seriously human rights are taken and strengthens the dedication to their defense. Even while these actions are crucial, the debate also emphasizes the difficulties and obstacles that human rights institutions must overcome. These institutions' efficacy may be hampered by task duplication, conflicting regulations, and resource constraints.

Additionally, maintaining diplomatic ties while promoting human rights may be challenging, especially when dealing with nations who have a poor track record in this area. In order to overcome these obstacles, international engagement and cooperation are essential. Coordination of efforts, the exchange of best practices, and holding countries responsible for their human rights obligations are all crucial functions of international organizations like the United Nations, regional human rights organizations and non-governmental organizations.

CONCLUSION

In conclusion, the debate emphasizes that the work and endeavors of institutions to uphold each person's inalienable rights are a testimonial to their commitment and resolve. All of these behaviors, from collecting data to making decisions to mediating disputes to imposing penalties, contribute to a society that values justice, dignity, and equality. In the continued quest for an equitable and rights-respecting global society, understanding the intricacies and working toward successful cooperation are crucial.A vital component that aims to settle disagreements and disputes while upholding human rights is conciliation. This strategy often avoids escalation, promotes communication, and aids in reconciliation, ensuring that disputes are handled without further violation of human dignity.

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CHAPTER 13

METHOD BY WHICH HUMAN RIGHTS INSTITUTIONS PROTECT HUMAN RIGHTS

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ABSTRACT:

The abstract is a brief introduction to the subject of "The Method by Which Human Rights Institutions Protect Human Rights." This article provides a thorough examination of the techniques used by human rights organizations to defend and protect basic human rights. The topic of the talk is the numerous strategies used by these organizations, including information collecting, research, advocacy, court cases, and cooperation. Human rights institutions serve a crucial role in uncovering abuses, holding offenders responsible, and promoting justice and equality via rigorous analysis and strategic implementation. The necessity of collaboration between international organizations, governments, and civil society in guaranteeing the efficacy of these strategies is highlighted in the abstract. In the end, the essay clarifies the complex and effective tactics used by human rights organizations in their work to defend and advance the rights and dignity of all people.

KEYWORDS:

Accountability, Advocacy, Human Rights Institutions, Methodology, Legal Proceedings, Safeguarding.

INTRODUCTION

The Method by Which Human Rights Institutions Protect Human Rights" covers a strategic and diversified approach meant to protect people's basic rights and dignity in a variety of situations. Institutions that support human rights, from global organizations like the United Nations to local groups, use a variety of approaches to carry out their crucial function. The careful information collection procedure, where these organizations meticulously record and evaluate human rights breaches, discrimination, and disparities, is at the core of this strategy. They provide an evidential basis via thorough data collecting that supports accusations and reveals the scope of abuses, often shedding light on problems that would otherwise go unnoticed [1]–[3].Their methodical approach includes a thorough examination of any potential infractions. To prove the truth of statements, a thorough analysis of testimony, forensic data, and contextual elements is required. Human rights organizations work in partnership with authorities, impacted communities, and local experts to uncover the truth about abuses, supporting their pursuit of justice and responsibility. These institutes play a crucial advocacy role by using their research to increase public awareness of violations of human rights on both national and international levels. They amplify the voices of victims, reveal systemic problems, and put pressure on accountable parties for change via media campaigns, reports, public involvement, and collaborations. In addition to drawing attention to urgent issues, lobbying also helps to advance legislative framework improvements and policy changes.

The cornerstone of protecting human rights is the use of the legal system, since institutions may bring or support legal actions against violators. They work along with impacted people or communities to pursue justice via local, national, or international courts in an effort to hold wrongdoers responsible and establish precedent for subsequent cases. Such efforts support the rule of law, create systems of accountability, and provide victims' compensation. Collaboration is a key component of human rights organizations' methodologies. They use collective resources, knowledge, and influence while collaborating with governments, civil society groups, and international organizations to handle difficult situations holistically. They increase their influence and forge a unified front against violations of human rights by forming coalitions.

Transparency, objectivity, and respect to ethical norms are crucial in this rigorous approach. Human rights organizations must continue to promote the rule of law, protect the rights and dignity of everyone, and conduct themselves honestly. In essence, the process by which human rights organizations defend human rights represents a thorough and strategic strategy that incorporates data collection, research, advocacy, legal action, and cooperation. By using these approaches, they draw attention to abuses, prosecute offenders, and promote radical change. By doing this, they not only defend human rights but also help create a society where everyone may live in freedom, dignity, and equality. International human rights organizations use a variety of strategies to carry out their mission of defending human rights, some of which highlight the uniqueness of international human rights legislation. These include methods for monitoring human rights compliance on a political level, methods of monitoring using reports, and finally methods of monitoring using complaints, petitions, or messages sent by States or people.

(a) Political oversight It involves machinery that, while not specifically designed to monitor how well Member States of the international community observe human rights, may still be used to that end, especially when it is a component of the machinery of organizations whose primary goals include the defense of human rights. The majority of competent bodies therefore base their "judgments" on the organization's constitution or sometimes even on documents whose binding status is not generally acknowledged, such the Universal Declaration or the American Declaration of Human Rights. At the UN, the General Assembly has had several opportunities to take action in the form of recommendations to "facilitate the enjoyment of human rights and fundamental freedoms," particularly with regard to the human rights situation in southern Africa. The General Assembly has utilized human rights to fight for the right to self-determination, which is acknowledged as the first and most important human right, in colonialism-related issues.
The Declaration on the Granting of Independence to Colonial Countries and Peoples, approved on December 14, 1960, is thus the subject of an examination by the Committee of Twenty-Five, which was established on November 27, 1961. Generally speaking, the regional organizations stipulate in their constitutions that human rights must be upheld, and any State that does so risks being removed. Article 8 of the Statute of the Council of Europe, in conjunction with Article 3, specifically provides for this option. Legally withdrawing from the Council of Europe in December 1969, the Greek government that had taken power after the coup d'état of 1967 was really delaying the outcome of the process intended to remove it from the Organization. Human rights are also included in the Organization of American States' list of principles (Article 5(j)), and the Bogota Charter, which serves as the OAS's constitution, makes the connection between democracy and human rights particularly clear (Preamble, Article 5(d)). However, as the Bogota Charter did not contain a

provision for the expulsion of a State in such circumstances, no consequence is specifically provided for in the event that human rights are infringed. As a result, issues arose in 1962 in relation to Cuba, which was deemed to have "voluntarily set itself outside the inter-American system" (Resolution VI of the 8th meeting of consultation of Ministers of Foreign Affairs at Punta del Este, January 1962) despite not being formally expelled from the OAS. Although the expulsion move had been aimed at "the present government of Cuba, but not the Cuban State," the Inter-American Commission on Human Rights continued to look into the state of human rights in Cuba. In its Addis Abeba Charter, the Organization of African Unity also stated that its Member States had accepted the Universal Declaration of Human Rights (Preamble), to which "due" respect and "intentional co-operation" were to be given (Article II). Human rights are not included in the Organization's principles (Article III), while being one of its aims (Article II).

The principle of non-interference in the domestic affairs of States found in Article III of the Addis Ababa Charter could even be argued to seriously restrict the implementation of the "human rights" objective mentioned in Article II, insofar as human rights fall under the domestic jurisdiction of states. As a result, the Addis Ababa Charter is neither a model of clarity nor does it demonstrate a clear commitment to using the OAU's political apparatus to ensure that Member States uphold human rights. However, in several instances involving human rights breaches in recent years, the OAU's subsidiary organizations have taken action. Additionally, under the OAU framework, work on developing a "African Charter of Human and Peoples' Rights" began in 1979. Human rights are not included in the relevant constitutional provisions of the League of Arab States. However, on September 3, 1968, the Council of the League of Arab States established, by Resolution 24/43, a Permanent Arab Commission on Human Rights, which, as a purely promotional entity, has created, among other things, a Declaration of the Rights of Arab Citizens.

(b) monitoring via reports One may argue that what is at issue here is a common law strategy used by international human rights organizations to monitor the compliance of human rights by parties to human rights agreements or members of international organizations. There are several documents that outline a method including the filing of reports, which may either be discretionary (like the system of periodic reports to the UN) or mandatory (as when required under human rights accords). The International Labour Organization stands out as the outstanding example here since it has perfected this method to the point where its efficacy can no longer be questioned.14 The action performed in response to the reports filed by States is the most significant issue that arises in this situation. In certain circumstances, such as the European Convention on Human Rights (Article 561), the action to be done on reports may not be included in the core text.

However, in most cases, specialist organizations made up of independent experts review the findings (for example, the IL0 Committee of Experts on the Application of Conventions and Recommendations). The findings of the assessment process, which is sometimes quite complicated and involves numerous organizations, are observations or suggestions that are either directed to all Member States or to a specific State identified by name. Comparison of the different methods involving the technique of supervi sion by means of reports reveals that this technique is particularly effective when: -the reports are submitted at relatively frequent intervals; -they are submitted in accordance with a plan which takes the form of a detailed questionnaire; -such reports are examined by an independent and impartial body, the members of which are appointed for a sufficiently long period; -that body is not

obliged to confine itself solely to reports and may seek to clarify the information they contain by reference to appropriate publications; -such reports are transmitted, for comments, to private, national or interna tional organizations; -they may lead to the adoption of recommendations the effectiveness of which will depend on the extent to which they are able to be of a specific rather than a general character; -the entire procedure, or at least the final part of the procedure (final report accompanied by recommendations), is made public.

(c) Monitoring via petitions or complaints5 This method, which is far more advanced than the preceding one, takes different forms depending on whether the petition may be filed by both States and private parties, regardless of whether those parties are the purported victims of a human rights violation. The entity in charge of overseeing the process started by the filing of the complaint may be administrative (as was the case for petitions from members of minorities, which were prioritized by the minorities section of the League of Nations Secretariat), political (as is the case for all United Nations bodies that must deal with petitions relating to trust or non-autonomous territories), quasi-judicial (for example, the Inter American Court of Human Rights), or any of these. There may be a number of different entities engaged or perhaps just one, in which case its character would alter as the process went on (the European Commission of Human Rights) [4]–[6].

The outcome of the procedure may be the creation of a report (as by the Human Rights Committee of the Covenant on Civil and Political Rights in the case of a communication by one State against another State under Article 41), the adoption of a recommendation (as by the Committee of Ministers of the Council of Europe in accordance with the provisions of the European Social Charter), or the delivery of a decision (as by the Committee of Ministers under Article 32 of the Eurosocial Charter). There is no question that this method forms the foundation of the whole apparatus for enforcing human rights, especially insofar as it encompasses the right of individual appeal. The United Nations' responsible institutions for colonial and non-autonomous territories have successfully employed it to achieve political goals (and, in particular, respect for the right to self-determination). The Inter-American Commission on Human Rights complaint changes in nature throughout the process and becomes a source of information about the state of human rights in the country in question.

This procedure is instituted by individuals within the Organization of American States, but it has a collective impact. The process at the UN for reviewing individual communications in accordance with Economic and Social Council Resolution 1503 is progressing basically in the same direction. Although limited to one region, this technique, as provided for by the European Convention on Human Rights, is a benefit to the entire international community and is primarily used in the context of the Council of Europe. This makes it an essential component of a true European human rights law.

The Institution's Legal Setup

In order to be regulated by international law, human rights institutions may either be governmental or non-governmental, in which case they are considered legal persons and are controlled by the laws of a Member State of the international community. The primary focus of this dissertation is on governmental human rights institutions. These governmental institutions were either created by an existing international organization or in accordance with a specific human rights treaty. They are different from one another, notably in terms of the members' independence or lack thereof. Some of them such as the United Nations Commission on Human Rights are made up of nations by virtue of their laws, in which case the representatives of those governments receive directives that cannot be free of any political

bias. Others are made up of individuals appointed in individual capacities, as experts (such as the European Commission and Court of Human Rights, the IL0 Committee of Experts on the Application of Conventions and Recommendations, and the IL0 Commission of Inquiry), or as individuals qualified to perform judicial or quasi-judicial functions (such as the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee on the Elimination of Racial Discrimination). Even circumstances in the middle may occur, such as the ad hoc committees of the United Nations Commission on Human Rights, whose members are selected from among the government representatives on the Commission in an individual capacity. Private, "voluntary" groups that claim to be independent of governments are known as non-governmental institutions.

They are made up of people or groups of persons and have played and are now playing a significant role in the area of human rights. In essence, it was their initiative that led to the creation of the Commission on Human Rights, a particular human rights organization established in accordance with the United Nations Charter. It is also to their eternal credit that the Universal Declaration of Human Rights was first proposed by them. By identifying human rights violations using their own methods (on-the-spot investigations, sending judges as observers to political trials, etc.), by notifying international organizations for the protection of human rights of such violations (e.g., by exercising their right to petition as recognized in Article 25 of the European Convention on Human Rights), and by otherwise working to advance and protect human rights The relationships between international organizations and, in particular, those with special responsibilities in the area of human rights, have been described in more or less concrete terms.

As a result, the UN has created a legal framework for "consultation" with non-governmental organizations (NGOs) under Article 71 of the San Francisco Charter. This is mostly where other international organizations have drawn inspiration from. There are several NGOs dedicated to promoting human rights; nonetheless, they still need a thorough examination from the political, social, and legal perspectives. The International Association of Democratic Lawyers, the International League of Human Rights, the International Federation of Human Rights, Amnesty International, and other organizations that are among the most active need to be highlighted. The International Committee of the Red Cross is one organization that has to be addressed individually. This is a Swiss private law organization that is only made up of Swiss nationals, although it has been given significant humanitarian responsibilities by tradition and by stated terms of the 1949 Geneva Conventions and the 1977 Protocols to those conventions.

DISCUSSION

The topic of "The Method by Which Human Rights Institutions Protect Human Rights" looks into the complex methods, techniques, and approaches used by human rights institutions to protect and guarantee the observance of basic human rights. These organizations, which may vary from worldwide organizations like the United Nations to regional associations and neighborhood advocacy groups, are crucial in preserving the rights to freedom, equality, and dignity for people all over the world. Information collecting is one of the main strategies used by human rights organizations. These organizations systematically gather information on abuses of human rights, discrimination, and inequality at different scales. They provide an evidence-based basis that supports allegations of abuses via meticulous recording and analysis, therefore bringing to light irregularities that would otherwise go unnoticed or unreported. An important element in the process is investigation, during which human rights organizations carefully evaluate claims of breaches. In order to verify allegations, this involves looking at eyewitness accounts, forensic evidence, and other pertinent data.

To get to the bottom of the infractions, the investigation procedure often include collaboration with regional authorities, subject-matter specialists, and impacted populations. Another important strategy used by these organizations is advocacy. They utilize their findings to increase public awareness of breaches of human rights, amplify the voices of victims, and put pressure on the governments and other organizations that are accountable. They raise awareness of urgent issues relating to human rights and demand responsibility via campaigns, reports, media outreach, and public participation. Legal processes are essential to the defense of human rights. Human rights organizations may take legal action to hold violators responsible in national or international courts, often in partnership with the affected parties or communities. These steps not only seek justice for the wronged parties but also establish precedents for future transgressions to be avoided [7]–[9].

CONCLUSION

In conclusion, a thorough and organized approach can be seen in the strategies used by human rights organizations to safeguard human rights. These organizations work together to gather data, conduct research, advocate for causes, take legal action, and collaborate to build a society where each person's rights are recognized, supported, and protected. Their methods guarantee that human rights abuses are revealed, that justice is sought, and that long-lasting reform is promoted, eventually resulting in the creation of a fairer and more equitable global environment.Collaboration is essential to the successful defense of human rights. To optimize their influence, these groups often collaborate with governments, civil society organizations, grassroots movements, and international organizations. Collaboration enables a cohesive response to challenging human rights issues by pooling resources, knowledge, and influence. The debate also emphasizes how crucial it is for human rights protection strategies to be open, accountable, and impartial. Institutions are required to defend moral principles, maintain objectivity, and make sure that their techniques are founded on a respect for the law and for human dignity.

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CHAPTER 14

AN OVERVIEW OF PROCEDURES, COMMITTEES AND DECISION-MAKING

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ABSTRACT:

The subject of "Procedures, Committees, and Decision-Making in Human Rights" is briefly summarized in the abstract. This article provides a thoughtful analysis of the complex procedures, hierarchical structures, and decision-making procedures that are involved in the field of human rights. The United Nations General Assembly's procedure is discussed in depth, with an emphasis on its committees and their roles as well as the nuances of decision-making with relation to human rights issues.

It sheds light on the intricate interactions between international organizations and member states and emphasizes the General Assembly's role in launching research and proposals to advance human rights and basic freedoms. The essay offers important insights into the operational dynamics that influence the progress and preservation of human rights on a worldwide scale via a thorough examination.

KEYWORDS:

Committees, Decision-Making, Fundamental Freedoms, General Assembly, Human Rights, Procedures.

INTRODUCTION

The Mandatory Union Organizations and the Subordinate Organizations Active in Matter Relating to Human Rights Established Under the Charter**.** Each UN Member State gets one vote in the General Assembly, which is composed of all UN Members (Article 9). There were 151 States members of the UN in December 1979. According to Article 20, the General Assembly convenes both regular yearly sessions and exceptional sessions when needed.

Eleven "special" sessions and seven "emergency special" sessions had been conducted by the end of 1980. The General Assembly unanimously adopts its own rules of procedure (Art. 21), which have been frequently amended since their passage in 1947 (G.A. res. 173(11)).

Them in Committees of the general assembly

The General Assembly considers questions before it either directly in plenary sessions or on the basis of a report from one of the Assembly's committees. The seven "Main Committees" are:

i) First Committee, which deals with disarmament and related issues;
ii) Second Committee, which deals with economic and financial issues;
iii) Third Committee, which deals with social, humanitarian, and cultural issues;
iv) Fourth Committee, which deals with decolonization issues;
v) Fifth Committee, which deals with administrative and budgetary issues; and
vi) Sixth Committee, which deals with legal issues.

All Member States are represented on all seven "Main Committees." A Special Political Committee is also present. The Third Committee is often consulted with regard to human rights-related issues. The Special Political Committee, the First, Fourth, and Sixth Committees, among others, also deal with matters where human rights concerns are crucial.

Voting in the General Assembly

According to the Charter's Article 18, decisions of the Assembly on "important questions" must be approved by a two-thirds majority of the members in attendance and voting, while decisions on other matters must be approved by a (simple) majority of those in attendance and voting. Human rights concerns as such are not included in the list of "important questions" included in the Charter, which also includes those pertaining to the upkeep of global peace and security, membership expansion, membership withdrawal, etc. However, the Assembly may specify new categories of questions to be determined by a two-thirds majority by a simple majority (Article 18(3)).

Human rights-related queries have never been added to the list of "important questions" in a broad ruling. However, there are instances when the General Assembly opted to demand a two-thirds majority for the approval of specific resolutions on human rights issues, since Article 18(Z) does not seem to provide an entire list of such topics. As a result, a representative asserted that a two-thirds majority was needed to adopt the territorial application clause (also known as the "colonial clause") of the draft Convention on the Political Rights of Women when it was being considered in a plenary meeting in 1952. This was because the draft had been recommended for adoption by the Third Committee [1]–[3].

The President determined that the draft resolution and the associated draft convention constituted an important matter and needed a two-thirds majority in order to pass. There was no opposition to this decision, thus it was determined that the clause which earned a simple majority—had not been accepted. Contrarily, in January 1957, the Assembly authorized by a simple majority the insertion of such a language in another draft human rights agreement, the agreement on the Nationality of Married Women. The draft convention was not ratified with the "colonial clause." The right of peoples and nations to permanent sovereignty over their natural wealth and resources is a question which falls within the general field of human rights in United Nations jurisprudence.

However, the question of whether the clause or the draft convention as a whole might require a two-thirds majority for adoption was not raised at all. This is in accordance with a number of decisions including Article 1 of the International Covenants on Human Rights. The General Assembly decided in 1962 that the draft Declaration on Permanent Sovereignty over Natural Resources was an important question within the meaning of Article 18(Z) of the Charter.

Questions relating to the operation of the trusteeship system are expressly listed in Article 18(Z) as being among the "important questions," while questions relating to non-self-governing territories do not appear in that list. Anti-colonialism and self-determination issues have therefore been argued to not be "important questions" in the strict meaning of Article 18(Z)'s objectives, despite their undeniable importance. The decision for one or the other interpretation has typically been made by a very narrow majority. It should be added that the voting rules described above only apply to the proceedings of the General Assembly's plenary meetings. In some cases, the General Assembly has acted on this interpretation, while in other cases, it has decided that the specific question of the non-self-governing territory that it had before it was a "important question." A (simple) majority of the members present and voting must agree on a decision before it may be taken by a committee, including the Main

Committees. When a motion is accepted or rejected in either the plenary or the main committee, the norm is that it cannot be reviewed in the same session unless the Assembly (or the committee, as appropriate) agrees to do so by a two-thirds majority. The General Assembly's past sessions have demonstrated that decisions regarding human rights have typically been made by votes in which a two-thirds majority was actually obtained, and in most cases significantly exceeded, without the issue of the item's "importance" and the required majority being raised. Without dissenting votes, several decisions on human rights have been made.

Fontios and Powers of the General Assembly in Matter of Humanitarian Rights

According to Article 13(l)(b) of the Charter, the General Assembly has two primary responsibilities in matters of human rights: to initiate studies and to make recommendations for the purpose of "assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." The Security Council and other UN bodies also submit reports to the Assembly, which takes them into consideration. The annual report of the Economic and Social Council provides the Assembly with an opportunity to conduct more research and studies and to take a variety of actions. Technically, States are not obligated by the General Assembly's recommendations on issues relating to human rights. However, it is important to keep in mind that all Members have committed to taking joint and individual action in cooperation with the Organization to promote universal respect for and observance of human rights and fundamental freedoms in Articles 55 and 56 of the Charter when assessing the authority of the Assembly's recommendations. In order to prepare for what will be said below about the duties and authority of the Economic and Social Council, it should be noted here that, in accordance with Article 62(3) of the Charter, the Council may draft conventions with regard to subjects within its purview and submit them to the General Assembly. An amazing number of international treaties (conventions) addressing human rights issues have been enacted and made available for signature and ratification by the Assembly throughout the years, both on its own initiative and at the proposal of the Council and other organs.

These include both general treaties like the International Covenants on Human Rights and instruments focused on a few particular issues like genocide, different women's issues, the eradication of racial discrimination, and others. The declaration of solemn, norm-setting Declarations in regard to human rights, issued by Assembly resolution rather than in the form of an international treaty, has been a unique contribution of the UN General Assembly. These include the 1948 Universal Declaration of Human Rights in addition to many additional documents that are discussed below.

General Survey

The General Assembly may create any subsidiary organs it considers essential for carrying out its duties (Article 22). Numerous of the numerous subsidiary organs that the Assembly has established in accordance with this provision have been, or now are, primarily or solely focused on, human rights-related concerns. However, they differ greatly in both nature and significance. Some are more ad hoc in nature, while others are more long-term. Some of these organs may be briefly mentioned as examples.

The International Children's Emergency Fund (UNICEF), founded in 1947, the Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), founded in 1949, and the Office of the High Commissioner for Refugees (UNHCR), founded in 1951, are just a few of the organizations that have been established. Additionally, the Assembly has established commissions to address a variety of concerns.

They include, for instance:

an Ad Hoc Commission to deal with the issue of prisoners of war from the Second World War (1950);

i) Commission to examine whether the circumstances in the Federal Republic of Germany, Berlin, and what was then known as the Soviet Zone of Germany were such that truly free and secret elections could be held (1950);
ii) Good Offices Commission to deal with the issue of how people of Indian origin are treated in South Africa (1952); and
iii) Commission to investigate whether the conditions in the United States were conducive to the more significant subsidiary organs created by the General Assembly in the area of human rights will be discussed in-depth in the pages that follow.

The Special Committee Against Apartheid

The methods the UN used and the actions it took to combat apartheid are discussed in a later section of this chapter. It is necessary to mention the historical backdrop in the current situation that prompted the General Assembly to create the Special Committee Against Apartheid. Since the first General Assembly session, in 1946, the issue of human rights and discrimination in South Africa has preoccupied the UN (G.A. res. 44(I)). The Organization's concerns were first restricted to the issue of how Indians (or persons of Indian and Pakistani descent) were treated in South Africa, but in 1952 they were expanded to include the whole issue of racial conflict brought on by apartheid policies (G.A. res. 616A and B(VI1)).

The General Assembly resolution 616A(VII) of that year created a commission "to study the racial situation in the Union of South Africa in the light of the purposes and principles of the Charter, with due regard to the provision of Article 2, paragraph 7 [the 'domestic jurisdiction clause'] as well as the' human rights provisions of the Charter."

The Assembly determined that the Government of South Africa's racial policies and the results of those policies were in violation of the Charter. This conclusion would be reiterated on several times with escalating intensity over the course of the next three years. The Special Committee on the Policies of Apartheid of the Government of South Africa was established by the General Assembly in 1962 (G.A. res. 1761(XVII) of 1962) as a permanent body with the responsibility of monitoring the racial policies of that Government and periodically reporting to the Assembly, the Security Council, or both. The Committee's name was changed from the Special Committee on Apartheid to the Special Committee Against Apartheid in 1974 (G.A. Res. 3324(Xx1X)).

The General Assembly decided in 1965 to add six additional States to the Special Committee's eleven members, which included permanent members of the Security Council and other nations with significant economic clout who were also charged with maintaining international security under the Charter. However, only the USSR expressed a readiness to join the Committee among those who were qualified. The failure of South Africa's major trade partners, including three permanent members of the Security Council, to join the Committee was lamented by the Assembly in 1966 (G.A. res. 2202A (XXI)). No one of the Committee's 18 members in 1980 was a permanent member of the Security Council. Later in this chapter, the Special Committee's mission, its activities, and the General Assembly's reaction to its findings and recommendations are discussed [4]–[6].

The Special Committee on the Situation Relating to the Enforcement of the Declaration on the Granting of Independence to Colonial Countries and People

On December 14, 1960, the General Assembly adopted a historic resolution (1514(XV)) in which it solemnly proclaimed "the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations." The Assembly stated in the preamble to the Declaration on the Granting of Independence to Colonial Peoples and Countries that "the process of liberation is irresistible and irreversible and that, in order to avoid serious crises, an end must be put to colonialism and all practices of segregation and discrimination associated therewith" and stressed the significance of human rights. All peoples "have the right to self-determination; by virtue of that right, they freely determine their political status and freely pursue their economic, social, and cultural development," according to the Declaration. By asserting that inadequate political, economic, social, or educational readiness should never be used as an excuse for postponing independence, it further refuted conventional colonialist reasoning. A Special Committee on the Situation with respect to the Implementation of the Declaration of Granting the Independence to Colonial Countries and Peoples (G.A. res. 1654 (XVI)) was formed by the Assembly in 1961 as part of the international apparatus to carry out the Declaration. According to G.A. resolution 34/310, the Special Committee's membership increased from 17 in 1961 to 24 in 1962 and to 25 in 1980. The Assembly has sometimes modified the Special Committee's charter. Therefore, the Special Committee was given the following tasks in 1979: to develop specific recommendations for the eradication of colonialism's remaining manifestations; to provide the Security Council with useful advice regarding the Charter's appropriate measures with regard to developments in colonial Territories that are likely to endanger international peace and security; and to continue to assess Member States' adherence to the Declaration and its provisions. The Special Committee follows certain procedures, such as gathering pertinent data, compiling reports, receiving petitions, hearing petitioners, and sending delegations to visit certain Territories.

The Special Committee has built a thorough system of supporting organizations to help with these objectives. In accordance with General Assembly resolutions, representatives of national liberation movements recognized by the Organization of African Unity take part in relevant Fourth Committee activities as observers, that is, without casting a vote. The Special Committee and other UN bodies have had and still have a close working relationship. As a result, the Assembly asked one of the UN's main bodies, the Trusteeship Council, to support the Special Committee in its work in the resolution creating the Special Committee. The Special Committee has informed the Security Council of several developments in response to the Assembly's request, including the situations in Southern Rhodesia (Zimbabwe), South West Africa (Namibia), Aden, and the Territories formerly governed by the Portuguese. Although they have not collaborated closely, the Special Committee helped the Commission on Human Rights adopt a new procedure in 1970 for the consideration of communications relating to gross violations.

The degree of cooperation by the specialized agencies with the work of the Special Committee has varied from agency to agency. The Assembly stressed the significance of all international organizations with ties to the UN fostering such cooperation in 1967 (G.A. res. 2311(Xx11)). The International Bank for Reconstruction and Development (World Bank) and the International Monetary Fund, on the other hand, and the General Assembly and the Special Committee, on the former, experienced some difficulties in the years that followed Despite lengthy discussions, the issue has not been resolved to the Assembly's satisfaction. Its 1979 resolution (G.A. res. 34/42) is typical of many earlier ones in that it expressed regret

that the IBRD and the IMF had not taken the necessary actions to assist in implementing the Declaration and related resolutions and denounced the practices of those agencies which continued to cooperate with the colonialist, racist minority regime in South Africa. The Committee has also given special attention to foreign economic interests' activities in Namibia, the former Southern Rhodesia, and South Africa. The collaboration of these interests with the relevant regimes, according to the Assembly, is harmful to the interests of the oppressed peoples and prevents the Declaration from being put into practice. It has also denounced all nations, some of which have been specifically identified, that continue to have connections with racist regimes on the political, diplomatic, economic, commercial, military, nuclear, and other levels (G.A. res. 34/41 of 1979).

The Western Sahara, Belize, and East Timor situations, as well as the Territories administered by Australia, New Zealand, the United Kingdom, and the United States, are a few examples of decolonization issues that have recently been considered by the Assembly. The Special Committee has been submitting a report to the General Assembly every year since 1963. Guam, American Samoa, and the US Virgin Islands are among the Territories that are under its administration. As a result, the Special Committee has created the most complex organizational structure of all the Assembly's subsidiary organs and has carried out operations of unmatched depth and breadth. The Special Committee's focus on the economic components of its work, the depth to which it examines the circumstances in particular nations, and the sophistication of its petition processes are some notable features of the approach it has taken. One indication of the significant and extensive influence of the 1960 Declaration is the vast number of formerly dependent territories that have achieved independence in subsequent years.

United Nations Council for Namibia

In 1967, the General Assembly passed Resolution 2248(S-V) creating the UN Council for South West Africa. The UN Council for Namibia was given a new name the next year. Its main duty is to oversee Namibia till independence while ensuring that as many residents of the Territory as feasible are involved. The UN Commissioner for Namibia handles the council's executive and administrative duties on behalf of its 25 member states. A Steering Committee and three Standing Committees support the Council's operations. The General Assembly urged the Council in 1979 to fulfill its duties by denouncing any fraudulent constitutional plans used by South Africa to continue its oppression and exploitation, working to prevent recognition of any government that did not win free and fair elections in Namibia under UN supervision, preserving Namibia's territorial integrity, and continuing to rally international support for the withdrawal of South African troops.

The United Nations High Commissioner for Refugees (Unhcr) the Unhcr

It was founded as the successor to the transient International Refugee Organization on January 1, 1951 by the General Assembly. Contrary to popular misconception, the High Commissioner does not work for the UN Secretariat. He is really a subordinate body of the Assembly, chosen by it and answering to it yearly through the Economic and Social Council. The High Commissioner’s function is to provide international protection to refugees who fall within the scope of his Statute by

1. Promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application, and proposing amendments thereto;

2. Promoting, through special agreements with Governments, the execution of any measures calculated to improve the situation of refugees and to reduce the number requiring protection;
3. Assisting governmental and private efforts to promote voluntary repatriation or assimilation within new national communities;
4. Promoting the admission of refugees to the territories of States;
5. Endeavouring to obtain permission for refugees to transfer their assets and especially those necessary for their resettlement;
6. Obtaining from Governments information concerning the number and conditions of refugees in their territories and the laws and regulations concerning them;
7. Keeping in close touch with the Governments and intergovernmental organizations concerned;
8. Establishing contact with private organizations dealing with refugee questions; and
9. Facilitating the co-ordination of the efforts of private organizations concerned with the welfare of refugees.

In accordance with the Statute, a "refugee" is defined as a person who is "outside the country of his nationality or, if he has no nationality, the country of his former habitual residence, because he has or had well-founded fear of persecution by reason of his race, religion, nationality, or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the government of the country of his nationality, or, if The term "protection" of refugees is understood to signify only "quasi-consular" and legal protection, not material aid. So, although the Office of the UNHCR's administrative costs is covered by the normal UN budget, all other costs are covered by voluntary contributions (Statute, para. 20). In reality, the High Commissioner's authority has always been generously construed, both in terms of the parties on whose behalf he works and in terms of the acquisition of funds and other resources. As a result, the General Assembly has repeatedly asked the High Commissioner to provide his good offices wherever possible and to help those who, technically speaking, do not fall within his purview. The High Commissioner's duties have risen in line with the rapid growth in the scale and complexity of the global refugee crisis in recent years.

His major focus has been on preventing refbulemer (the act of returning someone to a nation where they have good cause to fear persecution), awarding sanctuary, at least temporarily, and upholding the customary duty to assist mariners in need. In his 1979 report, the High Commissioner notes significant challenges in these areas and "instances where a lack of respect for the fundamental human rights of refugees has resulted in tragic consequences." The primary goal of UNHCR assistance programs funded by voluntary funds is to assist Governments in the search for long-term solutions for refugees and displaced persons of concern to the High Commissioner and in the promotion of self-sufficiency within the short term. Where appropriate, UNHCR actively supports all initiatives promoting the voluntary repatriation of refugees to their country of origin or previous place of residence. Local integration, however, makes up the majority of UNHCR support in many situations of extended asylum; depending on the circumstances, such integration is achievable in both urban and rural regions.

Resettlement in third countries is important when permanent solutions cannot be found in the original asylum country. The fact that the number of refugees and internally displaced people rose by an average of 2000 each day throughout the whole of 1978 serves as an illustration of the scope of the current issues handled by UNHCR. This average was considerably increased by the sad events that peaked in South East Asia in 1979.

As a result, only from the three States on the Indo-China peninsulas, nearly a million people departed their nations between 1975 and July 1979. Over 550,000 of them applied for refuge in South-East Asia. Bangladesh, the Horn of Africa, Zaire, Nicaragua, Cuba, and Southern Africa are just a handful of the significant refugee crisis locations. Finally, it should be highlighted that the High Commissioner has no authority over Palestinian refugees. His authority is limited by the Statute to those who do not get protection and aid from other UN bodies. Therefore, the UN Relief and Works Agency for Palestine Refugees in the Near East (1980 report in UN dot. A/35/13) is the relevant organization in Palestine.

Composition, Functions, and Procedures

The Economic and Social Council (ECOSOC), acting under the authority of the General Assembly, is the main UN body charged with promoting universal respect for and observance of human rights as well as international economic and social cooperation. It started off with 18 members and currently has 54, all of whom were chosen by the Assembly based on a fair regional distribution. While not explicitly stated in the Charter, this principle is nonetheless seen as being enforceable. All ECOSOC decisions are made by a majority of the members present and voting, and each member of the organization has one vote. The ECOSOC establishes its own norms of procedure, which it has often modified.

The Council typically has two regular sessions and one organizational session each year. There may be more special sessions. In general, human rights issues are discussed during the first regular session of the year. The Economic, Social, and Coordination Committees are the Council's three "sessional" committees. Though some are addressed directly in plenary sessions, most human rights issues are submitted to the Social Committee, which is comprised of all Council members. To review the text of the Universal Declaration of Human Rights and the Freedom of Information Conference's Final Act, the Council formed a special Human Rights Committee in 1948 (Dot. EICONF. 6/79).

This Committee, however, was not kept around. The Council is presented with the Social Committee's findings, which include drafts of resolutions and decisions, for consideration during plenary sessions. The Council created a sessional Working Group in 1976 in addition to its sessional committees to help it review reports submitted in accordance with the International Covenant on Economic, Social, and Cultural Rights. Below, the work of this group is examined.

The Functions and Powers of Ecosoc in Human Rights Matter

The Charter (Article 62 (2)) grants ECOSOC the authority to make recommendations in order to encourage the respect for and observance of all basic freedoms and human rights. When it comes to subjects that fall within its purview, the Council may write treaties for submission to the General Assembly and summon international conferences (Article 52). Agreements with specialized agencies fall within the purview of ECOSOC. This is important for human rights issues, especially in relation to the organizations (ILO, UNESCO, and WHO) that carry out crucial tasks in the human rights sector. According to Article 63, ECOSOC may confer with the agencies to coordinate their work.

However, due to the Council's low efficiency in this area16, it was decided to expand the Commission on Human Rights' mandate so that the Commission would support the Council in its capacity as the human rights coordinator (E/RES/1979/36). The Council is also given the authority by the Charter to request routine reports from the specialized agencies and to make arrangements with UN Members and the agencies to request reports on the actions taken to implement its own recommendations and pertinent General Assembly

recommendations (Article 64 (1)). The system of recurring reporting on human rights issues, which was established by the Council in 1956, is discussed below. In accordance with Article 71, ECOSOC is also required to provide sufficient arrangements for consultation with non-governmental groups that are interested in issues falling within its purview. The Council adopted intricate procedures for consulting with non-governmental groups in 1950. New arrangements outlined in Council decision 1296 (XLIV) took their place in 1968. ECOSOC makes a distinction between organizations with general consultative status (category I), organizations with special consultative status (category II), and organizations that can occasionally make useful contributions and are listed in a list known as the Roster when establishing consultative relations with organizations. Organizations in category I may suggest to a council committee that it ask the secretary-general to add issues of particular relevance to them to the council's provisional agenda. Organizations in categories I and II are permitted to appoint representatives to attend public sessions of the Council and its subordinate bodies as observers. They are permitted to circulate written remarks and to request hearings, subject to restrictions on their size and content. The consultation of non-governmental organizations with Commissions, Ad Hoc Committees, and other Council subsidiary institutions is governed by similar rules.

The General Assembly revised ECOSOC's tasks in 1977 as part of a larger UN system-wide restructure of the economic and social spheres. (d). Other ECOSOC Subsidiary Organs Besides the Functional Commissions Generally speaking, ECOSOC conducts its substantive work via subsidiary organs and on the basis of reports that these organs present to it. According to Article 68 of the Charter, the Council must create commissions in the domains of economics, society, and the advancement of human rights, as well as any other commissions that may be necessary for the discharge of its duties. The Commission on Human Rights and the Commission on the Status of Women have both been created in the area of human rights. The following describes their primary position in UN human rights efforts, as well as the roles of their subsidiary institutions and bodies.

To differentiate them from "regional" commissions like the Economic Commission for Latin America, UN commissions on human rights, social development, population, and narcotics are referred to as "functional" commissions. The Preparatory Commission of the United Nations suggested the creation of the Commission on Human Rights in its report in 1945, and ECOSOC adopted the recommendation at its first session in February 1946 (res. 5(I)). In its report to the Council (E/38/Rev. 1), the nuclear Commission recommended that "all members of the Commission on Human Rights should serve as non-governmental representatives." The Council disagreed and decided at its second session, in June 1946, that the Commission should consist of one representative from each of the nine original members, hence the term "nuclear Commission." A small concession was made by stating that "with a view to securing a balanced representation in the various fields covered by the Commission, the Secretary-General shall consult with the governments so selected before the representatives are finally nominated by these governments and confirmed by the Council." In the 34 years since the enactment of this provision, the Commission has consisted of individuals serving as individuals rather than as representatives of governments. In 1961, the Commission's membership was enlarged to 22, in 1966 to 32, and in 1979 to 43 (Council Res. E/1979/36). The 43 members are chosen by the Council for three-year periods in accordance with a fair regional distribution. There were 11 members in 1980 representing African States, 9 members representing Asian States, 8 members representing Latin American States, 10 members representing Western European and other States, including the United States of America, and 5 members representing socialist Eastern European States.

Although the Commission currently meets annually for a single period of six weeks, with an additional week for working group meetings, it has decided to consider:

1. The possibility of creating an inter-sessional role for the Commission's Bureau (Chairman, Vice-Chairman, and Rapporteur); and
2. The possible need to convene emergency sessions of the Commission in order "to co-ordinate the work of the Commission."

The Commission's Terms of Reference Ecosoc

resolved in 1946"' that the work of the Commission on Human Rights shall be directed towards submitting proposals, recommendations and reports to the Council regarding:

(a) An international bill of rights;
(b) International declarations or conventions on civil liberties, the status of women, freedom of information and similar matters;
(c) The protection of minorities;
(d) The prevention of discrimination on grounds of race, sex, language or religion;
(e) Any other matter concerning human rights not covered by items (a), (b), (c) and (d)." In 1979 the Council (res. E/1979/36) added the following provision to these terms of reference:

"The Commission shall assist the Economic and Social Council in the co-ordination of activities concerning human rights in the United Nations system." Under the Council resolutions of 1946, the Commission "shall make studies and recommendations and provide information and other services at the re quest of the Economic and Social Council." It shall also "submit at an early date suggestion regarding the ways and means for the effective implementation of human rights and fundamental freedoms." In its 1979 resolution the Council also reaffirmed that the Commission will be guided by the standards in the field of human rights as laid down in the various international instruments in that field. It also stated that the Commission should consider the ideas in General Assembly resolution 321130 of 1977 in order to carry out its duties in accordance with the Charter, the Universal Declaration, and the pertinent international and Principal Institutions Founded Under the Charter 245 national instruments.

Survey of Application of It terms Reference by The Commission

The International Bill of Rights at its second session in 1947, the Commission decided to use this term to refer to:

a) The proposed declaration,

b) The then-envisioned single Covenant on Human Rights, and

c) The measures of implementation. From the outset, the Commission dedicated its primary efforts to preparing an "International Bill of Human Rights."

Part I of this book traces the events leading up to the General Assembly's adoption of the Universal Declaration of Human Rights on December 10, 1948. The Assembly agreed in 1952 (G.A. res. 543 (VI)) to draft two Covenants, one on economic and social rights and the other on civil and political rights. The Commission finished contributing to the Covenants' formulation in 1954, but the General Assembly did not officially accept them until 16 December 1966. In 1976, the Optional Protocol to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights all came into effect. These agreements have each obtained 68, 69, and 26 ratifications as of

January 1, 1982. The Covenants' substantive provisions were covered in Part I of this Manual, and Chapter 11 of this Manual examines their procedural elements. The Universal Declaration's legal standing is less apparent, but the Covenants are unquestionably enforceable as treaties under international law for those States that have signed them. There has been a lot written about it, and most scholars agree that the Universal Declaration has strong moral and political authority. Additionally, it has inspired numerous international and regional treaties; served as the foundation for and justification for numerous significant decisions made by UN bodies; been reflected in numerous national constitutions, national laws, and the rulings of both national and international courts; and has been asserted by many scholars to have acquired the status of universal truth.

A thorough list of the treaties and declarations that the UN has enacted in the area of human rights is included in Annex 1 of this book. The Commission significantly contributed to the formulation of other instruments. Only a few of them are mentioned in the current section. The Child's Rights Declaration was adopted in 1959. It was first created by the UN Social Commission in 1950 and sent to the Commission for review. After working at its sessions in 1957 and 1959, the Commission delivered a draft Declaration to ECOSOC; the General Assembly later approved it in 1959 (res. 1386 (XIV)). The United Nations Declaration on the Elimination of All Forms of Racial Discrimination (1963) and the Convention on the Rights of the Child are both being written by the Commission, which anticipates submitting a finished text to the General Assembly in 1982. One of the outcomes of a series of events that began as a response to an epidemic of swastika-painting and other "manifestations of anti-Semitism and other forms of racial and national hatred and religious and racial prejudices of a similar nature," which occurred in many countries in the winter of 1959–1960, is this Declaration (and its companion Convention). A resolution denouncing the occurrences and urging its higher bodies to take action was approved by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, which just so happened to be meeting at the time (January 1960) (E/CN.4/800). Subsequently, the General Assembly agreed that four instruments were to be produced, namely. a draft proclamation and draft convention (G.A. resolutions 1780 and 1781 (XVII) of 1962) on the abolition of all kinds of racial discrimination, as well as a draft declaration and draft convention on the abolition of all forms of religious intolerance.

The Commission was tasked with creating all four instruments while taking into account the opinions of governments and the Sub-Commission. The Assembly passed the Racial Discrimination Declaration in 1963 (resolution 1904 (XVIII)), and the Convention followed suit in 1965 (resolution 2106 (XX)). On the Elimination of Religious Intolerance Declaration. The Sub Commission issued a preliminary draft on this topic in 1963 (E/CN.4/873), which the Commission reviewed and sent to the General Assembly in 1964, but the adoption of an international instrument was hampered by significant differences. The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and the Declaration on Territorial Asylum (1967) were ultimately accepted by the General Assembly in its 36th session in 1981.

Everyone has the right to seek and receive refuge from persecution in other nations, according to Article 14 of the Universal Declaration. This clause received criticism since it outlined the right "to seek" asylum without specifying whether or not it should be granted. Thus, between 1957 and 1960, the Commission drafted a draft Declaration on Territorial Asylum, which was formally adopted by the General Assembly in 1967 (res. 2312 (XXII))24. The Declaration on Territorial Asylum, while not announcing a right to receive asylum, goes beyond the provisions of the Universal Declaration by stating that the situation of those who

are entitled to use Article 14 of the Universal Declaration is, without affecting the sovereignty of States, o A person covered by Article 14 of the Universal Declaration must not be subjected to measures like border rejection, deportation, or being forced to return to a country where he may face persecution, according to the Declaration. Statement on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for All Persons. On the advice of the Fifth UN Congress on the Prevention of Crime and the Treatment of Offenders, the General Assembly approved this Declaration in 1975 (G.A. res. 3452 (XXX)).

The Commission was asked by the Assembly in 1977 to develop a convention on the same topic, and at the 1982 session of the Commission, this work was still ongoing. 1952's International Right to Correction Convention. The history of the Convention in relation to the Sub-Commission on Press and Information Freedom is discussed below. Although the Convention was ratified by just 11 countries by the start of 1982, it was approved in 1952 (G.A. res. 630 (VII)). Its goal is to guarantee that a person mentioned in a written report has the freedom to tell readers his side of the story. The 1965 International Convention to Abolish All Forms of Racial Discrimination. The chapter after that examines this Convention. 1968's Convention on the Non-Application of Statutory Limitations to Crimes against Humanity and War Crimes. The UN institutions were presented with the issue of punishing war criminals and those who had perpetrated crimes against humanity in 1965. The difficulty was how the statute of limitations applied to these offences. It has generated attention because to legislation that was being passed by the Federal Republic of Germany at the time that extended the statutory limitation period. No legislative restriction shall apply to war crimes and crimes against humanity, as those terms are defined in the succeeding Assembly resolution (res. 2391 (XXIII)), regardless of when the crimes were committed. Global Assembly Resolution 3068 (XXVIII): International Convention on the Suppression and Punishment of the Crime of Apartheid (1973). The Commission on Human Rights performs some of the duties outlined in the Convention, therefore even though this is covered in the chapter after this one, it is important to remember in the current context.

DISCUSSION

The discussion on "Procedures, Committees, and Decision-Making in Human Rights" offers a thorough examination of the complex procedures, hierarchical structures, and decision-making processes that support the advancement, defense, and promotion of human rights on a global scale. The crucial function of the UN General Assembly, which provides a venue for member states to coordinate, think through, and take collective action on human rights concerns, is at the center of this debate. The creation of committees within the General Assembly is one of the crucial elements in this area. These committees, each of which has a particular focal area, are crucial in tackling a range of human rights issues. The First Committee, for instance, deals with disarmament and associated concerns, the Second Committee concentrates on business and finance, the Third Committee deals with social, humanitarian, and cultural issues, and so on. These committees provide member nations a forum to have in-depth debates, exchange knowledge, and put forth resolutions relating to human rights [7]–[9]. Member states, international organizations, and the values contained in international law interact in a complex way when making decisions in the area of human rights. The United Nations Charter lays out the guidelines and values that should guide decision-making, with various vote criteria for various resolution kinds. Although the Charter does not expressly designate human rights issues as "important questions," the General Assembly may decide to need a two-thirds majority for certain resolutions pertaining to these issues, demonstrating the seriousness attached to these problems. It is crucial that the General Assembly play a leading role in launching research and making recommendations on matters

related to human rights. Although its suggestions are not legally enforceable, they have a strong moral and political impact on member nations' conduct and policies. It has aided in the acceptance of conventions addressing particular problems like racial discrimination, women's rights, and more. It has been crucial in the creation of important texts like the International Covenants on Human Rights.

CONCLUSION

Collaboration between member nations, international organizations, and civil society is essential in this complicated environment. While resolutions and recommendations encourage a common commitment to maintaining human rights objectives, committees promote discussion and collaboration. In the end, human rights procedures, committees, and decision-making processes highlight the group's commitment to building a fair and just society in which each person's rights are recognized and upheld.The Economic and Social Council's yearly report, which concentrates on numerous human rights issues, is the basis for the General Assembly's views and activities in this area. Furthermore, the General Assembly has a special influence on the creation of international agreements and conventions that deal with human rights issues.

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CHAPTER 15

ROLE OF THE INTERNATIONAL COURT OF JUSTICE IN ADDRESSING HUMAN RIGHTS ISSUES

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ABSTRACT:

This paper explores the crucial role the International Court of Justice (ICJ) has in resolving issues related to human rights and providing advisory opinions within the framework of the United Nations (UN). As the UN's main court, the ICJ plays a crucial role in maintaining international law and promoting intergovernmental harmony. This essay explores the ICJ's authority, practices, and duties with an emphasis on how it deals with human rights issues. It clarifies the rule that only States have standing in disputed cases before the Court while simultaneously emphasizing situations in which the General Assembly, Security Council, and other UN entities may request the Court's advisory views on legal issues. In-depth discussion is given about the ICJ's role in human rights issues, both contentious and advisory. The paper examines instances where the Court was faced with interpreting human rights treaties, sometimes directly and occasionally indirectly, as ancillary to the main problem. The Court's concern with human rights issues within larger legal frameworks is best shown by notable instances like the Haya de la Torre case and the Colombian-Peruvian asylum case.

KEYWORDS:

Advisory Opinions, Global Cooperation, International Court, Justice, International Law, Judicial Authority.

INTRODUCTION

International Court of Justice the ICJ is the main court of the UN, and the UN Charter includes its statute in full. It is not intended to conduct a thorough analysis of the function and procedures of the Court in this handbook. Only States may participate in disputed proceedings before the Court, although the General Assembly, the Security Council, and other bodies recognized by the Assembly may ask the Court to provide an advisory opinion on legal issues. As a result, neither private citizens nor non-governmental groups may approach the Court. The Court has often been asked to review human rights issues in advisory and contentious procedures. The Court has sometimes had to examine the interpretation of a human rights treaty directly. Other times, tangentially related human rights issues have emerged. The Haya de la Torre case of 1951, in which the Court had to interpret the Convention on the Right of Asylum signed in Havana in 1928, and the Colombian-Peruvian asylum case from 19504' are examples of the former category.44 Between 1950 and 1971, the Court issued four advisory opinions pertaining to the international status of South-West Africa (Namibia). A decision on preliminary objections (1962) and a ruling (Second Phase 1966) were given in a disagreement involving the same topic in contentious procedures brought by Ethiopia and Liberia against South Africa.

These advisory opinions and judgments contained strong human rights elements, while the actual holdings related primarily to other questions such as whether South-West Africa had remained a territory under Mandate after the dissolution of the League of Nations and whether South Africa remained bound by the obligations of a Mandatory: whether the United

Nations was the successor to the League as supervising authority; whether Ethiopia and Liberia as former Members of the League of Nations had locus standi in regard to the fulfilment by the Mandatory of its obligations under the Mandate; and whether South Africa's Mandate had been legally and validly terminated by the General Assembly in 1966.

In the last of the advisory opinions, which was rendered at the request of the Security Council in 1971, the Court found that the General Assembly's conclusion that South Africa had failed, to fulfil its obligations in respect of the administration of the Mandated Territory and the termination of the Mandate were justified because, inter alia, through its policy of apartheid South Africa had committed flagrant violation of the purposes and principles of the Charter. The General Assembly requested the advisory opinions on the interpretation of the peace treaties of March 1950 and (Second Phase) of July 195046 due to its continued interest in and growing concern over the serious allegations made against Bulgaria, Hungary, and Romania regarding the respect for fundamental freedoms and human rights in these countries. (G.A.res. 294(IV) of October 22, 1949) [1]–[3].

The concerns posed to the Court were essentially about their duty to select representatives to Com missions that were authorized under the three Peace Treaties to resolve the problems, rather than the specifics of the human rights situation in the three nations. The request for the advisory opinion on reservations to the Genocide Convention (1951) was made in order to get guidance on whether or not certain reservations to that Convention were admissible. The Court's conclusion that the Convention's basic principles are ones that civilized countries regard as obligatory on States even in the absence of a customary duty served as the foundation for its reasoning. The Court was given the chance to confirm and add to this assertion in 1970. The Court distinguished between obligations that States have erga omnes and commitments whose fulfilment is the subject of diplomatic protection in its ruling in the Barcelona Traction Cases between Belgium and Spain (Second Phase). In modern international law, obligations erga omnes result from the prohibition of acts of aggression and genocide as well as from the concepts and guidelines governing fundamental human rights, such as freedom from slavery and racial discrimination.

Some of the relevant protective rights have been incorporated into general international law, while others are granted through international agreements with worldwide or almost universal application. The International Court of Justice stated that the General Assembly did not have the right, under the law in effect at the time, to refuse to give effect to an award of compensation made by the Administrative Tribunal in favor of a member of the United Nations staff whose contract of service has been terminated without his consent. This was stated in the advisory opinion on the effect of awards of compensation made by the UN Administrative Tribunal from 1954. Despite the fact that the questions put to the Court had a strong focus on individual rights, it responded to the General Assembly's request for an opinion.

The Court retains any stated authority granted to it by its Statute notwithstanding the simple fact that the rights of States are not in question. The Court affirmed its authority to consider a request for an advisory opinion for the purpose of evaluating judicial procedures involving specific people in the opinion about decisions of the Administrative Tribunal of the IL0 upon complaints lodged against Unesco5' (1956). A Member State, the Secretary-General, or a person in regard to whom a judgment has been rendered by the Tribunal may object to the judgment on certain specific grounds by submitting a written application to a Committee of the General Assembly, asking it to request an advisory opinion of the International Court of Justice on the matter. This provision was added to the Statute of the United Nations Administrative Tribunal by Resolution 957 (X) of the General Assembly in 1955. The

Tribunal has exceeded its jurisdiction or competence, has failed to exercise jurisdiction granted to it, has erred on a legal issue pertaining to the provisions of the Charter, or has engaged in fundamental procedural misconduct that has resulted in a failure of justice. These are the grounds for making an application to the Committee. The members of the Committee are the Member States whose representatives sat on the General Committee of the General Assembly's most recent ordinary session. If the Committee determines that the application has a solid foundation, it will ask the Court for an advisory opinion. When such a request is filed, the Secretary-General must either comply with the Court's opinion or ask the Administrative Tribunal to affirm its prior decision or issue a new decision that is in line with the Court's view. By 1973, the Committee had received sixteen requests for the review of Tribunal decisions, but only one of those requests the one that the Committee found to have a strong basis had made it to the Court. The Court ruled that it had the authority to express an opinion and that nothing about the judicial review mechanism put in place by basic Assembly resolution 957 (X) conflicts with the basic rules guiding the legal system. In order to preserve the parties' equality, the Court also decided as it had done in the previous case of UNESCO in 1956 not to convene a public hearing to receive oral arguments.

In its Advisory Opinion of July 12, 1973,51 the Court determined that neither the Administrative Tribunal had failed to execute the authority granted to it nor had it made a fundamental procedural mistake that had resulted in a miscarriage of justice. The International Court of Justice determined that Australia's and New Zealand's arguments no longer had any merit and that the Court was not required to rule on them in the two nuclear test cases, both of which included France. In his Separate Opinions in both cases, Judge Petren referenced prior developments in the field of human rights in relation to the locus standi of the Applicant States and referred, albeit with some reservation, to the statement made by the Court in the Barcelona Traction Case, which listed violations of fundamental human rights as giving rise to obligations erga omnes of the States in question. In his dissenting opinions, Judge Ad Hoc Sir Garfield Barwick also made reference to what he called the obiter dicta in the Barcelona Traction Case. In the case involving American diplomatic and consular personnel in Teheran, the court issued an order in December 1979 outlining temporary steps that the Islamic Republic of Iran's government should implement until the court renders a final judgement in the matter. The International Court of Justice has jurisdiction over disputes involving the interpretation and application of human rights conventions of the UN system.

The Court found that the Iranian government had broken a number of its international legal obligations, and that it should, among other things, immediately secure the release of the hostages. The specific language used varies from instrument to instrument, but the majority of human rights conventions created by the United Nations and specialized agencies contain clauses stating that any disagreement between States Parties regarding the interpretation or application of the convention that cannot be resolved through other channels shall be brought before the International Court of Justice at the request of any one of the parties. The International Covenants on Human Rights do not, however, expressly allow for court adjudication. The Human Rights Committee should recommend to the Economic and Social Council that the Council ask the Court to provide a "advisory opinion on any legal questions connected with a matter of which the Committee is seized" (E/2573), according to the draft of the International Covenant on Civil and Political Rights prepared by the Commission on Human Rights in 1954. The Third Committee of the General Assembly eliminated this clause in 1966 (A/6546).

United Nations Organs' Procedure Used and Action Taken in Human Rights Matter

(a). Consideration of breaches and communications pertaining to them It is estimated that the UN receives between 30,000 and 40,000 messages or complaints each year claiming abuses of human rights. A variety of different processes have been devised to deal with these problems. The terms "petition-recourse" and "petition-information" processes may be distinguished for analytical reasons; both are briefly described below. Petition-recourse procedures call for the examination and resolution of complaints on an individual basis. The main goal of petition-information methods is to make it easier to gather data on the overall situation involving a group of people, such as "missing" people or those living under the apartheid system. However, as Tardu points out, the line between the two is not particularly clear since each system may provide relief to both individuals and classes.

The highly significant communication protocols created by

1. The Optional Protocol to the International Covenant on Civil and Political Rights or
2. The Convention on the Elimination of All Forms of Racial Discrimination are not included in the analysis that follows. A large number of letters addressed to the United Nations or any of its organs had already been received before the Commission on Human Rights met for the first time regularly in January 1947. Many of these letters included concerns about the violation of human rights.

The Commission decided on a procedure that, as later modified in technical details, involved the compilation and distribution to members of the Commission of two lists of communications:

1. A non-confidential list containing a brief indication of the substance of each communication that deals with the principals involved; and
2. A confidential list containing a more detailed description of each communication. Of course, messages claiming violations of human rights are included in the "other communications." The Economic and Social Council approved this statement in its resolution 75(V) of August 5, 1947, and it was reiterated in a consolidated resolution on communications concerning human rights that the Council adopted in 1959 (Council resolution 728 F (XXVIII)).

This statement was included in the report of the first session and stated that "The Commission recognizes that it has no power to take any action in regard to any complaints concerning human rights." The Commission on the standing of Women declined to approve a similar self-denying legislation, despite the fact that their constitutional standing is identical to that of the Commission on Human Rights, as was previously shown. Contrary to the Commission on the Status of Women's wishes, ECOSOC decided that the Council "recognizes that, as in the case of the Commission on Human Rights, the Commission on the Status of Women has no authority to make recommendations to the Council on urgent problems requiring immediate attention in defense of women's rights." Later, Council Resolution 3041 (XI) of 1950, which established separate non-secret and confidential lists, revised Resolution 76 (V) and Resolution 75 (V). criticism and reformation efforts. Numerous people criticized the Council's and the Commission on Human Rights' conclusions. In response to the recommendations of the Sub-Commission on Discrimination and Minorities, the Commission on Human Rights decided not to sanction any change in the procedure [4]–[6].

The two Sub-Commissions, whose members served in their individual capacities rather than as government representatives, recommended amending Council resolution 75 (V), which

would make it possible to take action in certain cases. The Economic and Social Council approved the proposal for the compilation of a list of communications on freedom of information twice a year (Council Resolution 240 C (IX) of July 28, 1949), but specifically decided that this was not to apply to communications that contained criticism or complaints against governments in the area of freedom of information. The Secretary-General took the subject up before the two Sub-Commissions had a chance to try to amend the arrangements, but they were unsuccessful. His report "on the present situation with regard to communications concerning human rights" (Dot. E/CN.4/165,2 May 1949) was submitted to the Commission on Human Rights. Its main recommendation was that the Commission suggest to the Council amending its resolution 75 (V) of 1947 so that, in particular cases affecting very large numbers of people or having international repercussions, the Commission should be requested to examine the communications. At the time, the Commission on Human Rights did not take any action along these lines. However, two decades later, as will be shown below when the processes for the assessment of complaints of a pattern of serious human rights abuses are considered, arrangements of a similar kind were designed and implemented. Another extremely harsh academic critique of the Commission and ECOSOC's "no power to take action" stance was made by Professor Hersch Lauterpacht in particular. The Secretary General called the Commission's attention to Lauterpacht's writings in his report.

Between 1949 and 1959, various Governments and groups of Governments made numerous attempts to overturn the decision that the Commission on Human Rights lacked the authority to respond to complaints of human rights violations. For instance, the General Assembly made it clear that it found the situation at the time to be unsatisfactory when it invited the Council to give the Commission on Human Rights instructions regarding communications and to ask the Commission to formulate its recommendations on them (G.A. res. 542 (VI) 1952) at the 6th session in 1951/1952. Council Resolution 441 (XIV) of 1952 states that the Council declined to follow this instruction and chose not to take any action. Egypt has sponsored the resolution at the General Assembly.

Egypt made similar unsuccessful efforts later on, but so did Argentina, Belgium, Greece, India, Israel, and the Philippines. "O Repeal or modification of the "no authority to act" theory. The growing vigor of the fight against racial discrimination in former colonial countries and southern Africa was destined to bring the "no power to act" dogma to an end. The events that led to the violation of the "no power to act" doctrine and ultimately to the new procedures outlined in Council Resolutions 1235 (XLII) of 1967 and 1503 (XLVIII) of 1970 will be discussed in more detail later.

These events were started in 1965 by the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (the Committee of Twenty-Four). The Economic and Social Council, which has repeatedly ruled that the Commission on Human Rights lacks the authority to address violations of human rights, invited the Commission to consider the issue of the violation of human rights, including racial policies, as a matter of importance and urgency.

The Committee of Twenty-Four called attention to the evidence provided by petitioners regarding violations of human rights in certain territories in southern Africa. The Sub-Commission, the Commission on Human Rights, ECOSOC, and the General Assembly spent the next five years (1966–1971) working on developing the rules and guidelines that would be used in the execution of this new mandate. A detailed legislative history of the texts that were subsequently enacted is not intended to be presented here. Only a few crucial steps will be highlighted.

a. The General Assembly confirmed that the new activities should not be restricted to dependent territories and to questions of racial discrimination by inviting the Council and the Commission to urgently consider ways and means of improving the United Nations' capacity to stop violations of human rights wherever they may occur (G.A. res. 2144 A (XXI), para. 12 of 1966).

b. By resolution 8 (XXIII) adopted in March 1967, the Commission decided to consider every year the issue of violations of human rights and fundamental freedoms, including apartheid and policies of racial discrimination, in all nations, with special consideration for colonial and other dependent countries and territories. It asked the Sub-Commission to compile a report on human rights abuses from all available sources for the Commission's use in considering this issue. It also asked the Sub-Commission to bring to the Commission's attention any circumstances that it had a good reason to believe revealed a pattern of systematic abuse of human rights and fundamental freedoms. (E/4322 (1967) para. 394).

c. In its resolution 1235 (XLII) on June 6, 1967, the ECOSOC acknowledged and praised the Commission on Human Rights' resolution 8 (XXIII). The "no power to act" concept of Resolution 75 (V) of 1947 was then finally broken. The Commission and the Sub-Commission were given permission, among other things, "to investigate facts pertaining to egregious abuses of human rights and basic freedoms, as represented by the policy of apartheid as practiced in. and South Africa. West Africa's South. in communications specified by the Secretary-General in accordance with Economic and Social Council resolution 728 F (XXVZZZ) and to racial discrimination, particularly as practiced in Southern Rhodesia. The Council resolved in the same resolution that the Commission may, in suitable circumstances, conduct a detailed investigation into situations that show a pattern of repeated human rights breaches, such as apartheid and racial discrimination in Southern Africa.

d. After making these decisions, the bodies set about formulating the processes by which the Commission on Human Rights would carry out its new duties, including how and by whom the vast majority of allegations that are constantly being submitted should be screened, how and by whom those deserving of examination should be chosen, how and by whom contentious facts should be established, and what the role of governments should be in this endeavor. The Council adopted resolution 1503 (XLVIII) of May 27, 1970, on the "Procedure for dealing with communications relating to violations of human rights and fundamental freedoms," based on a draft prepared by the Sub Commission and the Commission and after, in 1969, the draft had been re ferred back to the Commission by the Council and transmitted to States Members for consideration and comment. In its decision 1 (XXIV) from 1971, the Sub-Commission set temporary guidelines for addressing the issue of admissibility.

e. As a result, the Economic and Social Council's resolutions 1235 (XLII) and 1503 (XLVIII), as well as the provisional rules adopted by the Sub-Commission in resolution 1 (XXIV), set forth the procedures for the United Nations to handle communications relating to the violation of human rights. A communication is eligible for consideration regardless of its form if it is intended for the UN ("however ad dressed," in the words of Council resolution 728 F (XXVIII)). Resolution 728 F (XXVIII), also known as the revised version of resolution 75 (V), has continued in effect, with the exception of those of its provisions that have pro tanto been repealed by resolutions 1235 and 1503. Communications that are obviously meant to be submitted to the Human Rights Committee under the Optional Protocol and that seem to satisfy the protocol's requirements for receivability are not routed via the 1503 process. A five-member Working Group on messages of the Sub-Commission on

Prevention of Discrimination and Protection of Minorities screens the remaining messages. It refers to the Sub-Commission those communications that seem to point to a pattern of flagrant and dependable human rights breaches. The Sub-Commission takes them into account, together with any official responses, and decides, using all "other relevant information," which specific circumstances (as opposed to individual communications) it will submit to the Commission. Since 1974, the Sub-Commission has presented the Commission with secret reports that include all pertinent information and summarize its conclusions each year. The Commission has a tradition of creating its own working group to review the information provided by the Sub-Commission, and this practice dates back to 1974. It was explicitly resolved in 1978 (Commission resolution 5 (XXXIV)) to ask the States immediately affected to address the Commission and respond to members' queries. In accordance with resolution 1503, the Commission may choose from the following options with regard to any situation that the Sub-Commission refers to it:

i. Decide not to act;
ii. Decide to stop considering the situation under 1503 and consider it in accordance with another procedure; or
iii. Choose to conduct a thorough investigation of the situation in accordance with resolution 1235 (XLII) of 1967.

Such research may be conducted without the approval of the relevant government(s) or a higher UN body. This was done in the instance of Equatorial Guinea in 1979 or (d) choose to have an ad hoc committee conduct the probe. This option needs the unequivocal cooperation of the State in question, the preceding use of all available domestic remedies, and it cannot be related to a situation that is currently being handled by another UN or regional process. The process followed by the ad hoc committee and all activities envisioned in the general execution of the resolution must be kept private.

The Ad Hoc Committee shall provide a report to the Commission outlining its findings and recommendations, and the Commission may elect to make recommendations to the Council in light of this report. It should be noted that resolution 1503 states that "all actions" involved in its implementation "shall remain confidential until such time as the Commission may decide to make recommendations to the Economic and Social Council." As a result, all relevant bodies' meetings are held in private, and their records and other documents related to them are kept in confidence.

When the Commission decided, in the case of Equatorial Guinea, to stop confidential consideration under the 1503 procedure and to make public all the relevant, previously confidential materials, it marked a significant development toward better public understanding of how the procedure operates'

(6) Resolution 1503 is silent about the action that the Economic and Social Council might take when it receives a recommendation from the Commission on Human Rights. The United Nations Charter's Articles 62(1) and (2) address this issue. The Council's power to make recommendations under Article 62 has been well established since 1948, and it is in no way constrained to making just "general" proposals.

Relationship between this procedure and other responses to human Rights violations

Considerable discussion has taken place in the Commission regarding the issue of the relationship between the procedure under resolutions 728 F, 1235, and 1503 and the Commission's consideration of other human rights situations. The Council has the authority to address recommendations to individual Members of the United Nations, and has done so

on numerous occasions. While certain procedural issues have sprung up, it is evident from the broad Assembly's and ECOSOC's resolutions as well as the Commission's continuous practices that it has a broad mandate to investigate claims of human rights breaches. As a result, attention is given to a range of actions that have been taken in response to breaches in the areas of fact-finding, the creation of studies, and other areas later in this chapter. The Commission chooses whether to analyze specific circumstances in a public or private forum. The Commission's authority to examine publicly the human rights situation in any nation would seem to be unrestricted as long as "all action envisaged in the implementation" of the 1503 process remained private. In order to promote this secrecy, the Commission Chairman has publicly publicized the names of the nations with regard to whom the Commission has made secret determinations every year since 1978, before to the Commission's open discussion of infractions.

However, neither the choices' nature nor the data that supported them were made public. However, it would seem that the Commission might publicly address a problem in a specific nation that has been handled under the 1503 process. The Commission's ability to act on behalf of people is another issue that merits thought. While the Commission has taken similar action in the past with regard to politicians detained in Chile (decision 1 (XxX11) (1976) and imprisoned Black leaders in South Africa (decision 2 (XxX111) (1977), these actions have taken place in the context of situations that have already been identified as constituting persistent patterns of grave human rights violations. The issue was thoroughly discussed by the Commission in 1980 in connection with a proposal to telegraph the USSR government regarding the case of Mr. Andrei Sakharov, who was allegedly "removed from his home in Moscow and confined in Gorki."j5 The Commission ultimately adopted a compromise decision to postpone discussion of the issue until its subsequent session (decision 11 (XXXVD (1980)). The Commission adopted two resolutions during the same session, one urging all governments to support and encourage people to advance the effective observance of human rights (resolution 23 (XXXVI)), and the other urging governments to ensure the strict application of laws governing fundamental protections of the individual to ensure that no one can be prosecuted or subjected to persecution because of a relationship to someone who is suspected, accused, or convicted. A lot of critiques may be leveled at the outcomes they have produced, despite the intricacy of these numerous processes and the amount of time and energy invested in its necessarily incorrect design. In his initial remarks to the Commission in 1980, the Director of the UN Division of Human Rights gave some hint of these: "Our experience so far compels me to question. if certain presumptions, on which we have been basing our work, are still true. Is it acceptable to put so much emphasis on the examination of circumstances in private processes, excluding the global community and oppressed peoples in the process? Are certain processes in risk of acting as screens of secrecy that keep the cases, they cover from being addressed in public? Should we let many years to pass while the victims continue to suffer and nothing significant is done, even though there is likely no other option than to attempt to cooperate with the Governments involved? How do we deal with governments who behave dishonestly or exploit the Commission's processes by ostensibly cooperating while actual human rights breaches persist? In addition to these inquiries about our past activities, there are inquiries about our probable lack of activity.

How, for instance, do we manage urgent circumstances, especially in between Commission sessions? The Commission intends to think about the potential function that its Bureau may have in this area in the future. Possibly something significant might come from this. How can we identify instances of infractions to bring to the Commission's attention? Is this subject being politicized too much? Is there a rationale for the Commission to seek a World Report on Human Rights every year, likely from one of its members serving as special rapporteur, to

serve as the foundation for its examination of the item on human rights violations? In addition, to what degree does the Commission use reasonable or fair criteria to determine how to respond to a situation after identifying it as one about which it should act?

Is it best to leave the choice to individual government initiative, or may the Bureau of the Commission examine the options and evaluate the best course of action?"66 A large number of the issues so found were not unintentional. Opposition to the 1503 method has been and will exist from strong and important governments. The UN's capacity to react swiftly, effectively, and impartially to breaches of human rights won't be secured unless this resistance is overcome by a majority of global public opinion and a resolute stance by concerned states.

Communications Relating to The Status of Women

It will be remembered that the Economic and Social Council issued guidelines for the handling of communications relating to human rights in resolution 75 (V) of 1947. These guidelines were later updated by resolution 304 (XI) of 1950. There were no comparable changes made to resolution 76 (V) when resolution 75 (V) was replaced by a console dated text in resolution 728 F (XXVIII) in 1959, but the rules that applied to the two Commissions remained essentially the same. However, no provision was made for the Commission on the Status of Women to be involved in the procedures when fundamental changes were introduced by resolutions 1235 (XLII) and 1503 (XLVIII) in regard to human rights communications that appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms. The Commission on the Status of Women handled the item "communications concerning the status of women" in accordance with resolution 76 (V) in a routine manner: it established a Committee on Communications, decided that the originals of the communications in the No. 1 category should be preserved, and decided that the communications in the No. 2 category should be preserved.

However, as far as substance is concerned, gross violations consisting of discrimination on the basis of sex are not outside the competence of the organs actually charged with the implementation The communications topic did not appear on the Commission's agenda at all in 1970 or 1972, nevertheless. After a protracted discussion, the Commission decided by majority vote in 1974 to stop considering communications (E/5451) in light of the implementation of the 1503 procedure. ECOSOC did not support this choice, and in 1975 it extended an invitation to the Commission to do so (res. 86 (LVIII)). The latter effectively overturned its choice in 1976 (E/5909, chap. 1, draft resolution X), but ECOSOC did not act again until 1980, when it asked the Commission on Human Rights and the Commission on the Status of Women to present their respective viewpoints on the issue to the Council in 1982 (Council resolution 1980/39). Meanwhile, in 1980, the Secretariat published for the first-time a thorough non-confidential list of all messages pertaining to the situation of women that the UN as a whole had received (EKN.6KR.25). Additionally, it should be emphasized that the General Assembly's 1979 Convention on the Elimination of All Forms of Discrimination Against Women does not include any clauses addressing the receipt or evaluation of pertinent communications.

Other United Nations Human Rights Petition Procedures

A broad variety of UN entities accept petitions or communications pertaining to particular issues in addition to the methods for the examination of communications that have been detailed above. Since all of the pertinent bodies are discussed elsewhere, either in the current chapter or the one after, it is just suggested to mention them here. The mandate of each of the following bodies permits it, among other things, to receive and consider pertinent petitions:

(1) The Ad Hoc Working Group of Experts on Human Rights in Southern Africa;

(2) The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories;

(3) The Ad Hoc Working Group to Inquire into the Situation of Human Rights in Chile. Although the method of response varies significantly from one to the other.

You may also bring up two more processes that were created by ECOSOC resolutions. Communications alleging violations of trade union rights against IL0 Member States are sent to the ILO's Governing Body in accordance with Council Resolutions 277 (X) and 474 A (XV). The Governing Body then decides whether to refer the communication to the IL0 Fact-Finding and Conciliation Commission. In accordance with Council Resolution 607 (XXI) of 1956, the UN Secretary-General is required to notify the IL0 Director General of any information he receives on forced labor. System of periodic reports on human rights in resolutions passed in 1949 and 1950 (210 (VIII) and 283 (X) respectively), the Economic and Social Council established provisions for general reporting by States Members on the implementation of recommendations on economic and social matters (the term "social" including "human rights"); however, due to the significant burden this scheme placed on both Governments and the Secretariat, it was discontinued in 1952 (Council res. 450 (XIV)). A system of yearly reporting by States on human rights was suggested by the Commission on Human Rights in 1950 (E/1681 para. 47), but ECOSOC sent the idea back to the Commission for further consideration (res. 303 E (XI) (1950)). The United States delegation gave the idea, which had been put forth by France three years earlier, strong support in 1953 under the following circumstances: the Eisenhower Administration, in a statement made by Secretary of State Dulles in early 1953, radically altered the policy of its predecessor, declaring that it did not favor "formal undertakings" as the proper way to achieve the goals of human liberty throughout the world, and that it did not support bilateral agreements.

In order to address these three branches of its proposed "program of practical action," the United States representative on the Commission on Human Rights proposed three draft resolutions at the Commission's 1953 session, including one on "annual reports on human rights" (E/2447 paras. 263-68). Later in 1953, the General Assembly made it clear that the recommendations would "supplement" and not "replace" the provisions of the Covenants when it asked the Commission to provide recommendations on the topics of the three draft resolutions (res. 739 (VIII)). On the basis of this recommendation of the Commission, the Council established a system of period reports on human rights by its resolution 624 B (XXII) of 1 August 1956, making it clear that a system of annual reports was a step proposed "without prejudice to the adoption and ratification of the Covenants on human rights, including the measures of implementation provided therein." Given that the consolidation and lowering of the frequency of the anticipated reports would best serve the resolution's objectives, it requested that States Members of the United Nations and of the specialized agencies send reports every three years.

Each report had to cover the rights outlined in the Universal Declaration of Human Rights as well as the right of peoples to self-determination. It also had to discuss developments and advancements made in the field of human rights over the previous three years, as well as steps taken to protect those rights in the reporting state's metropolitan area and in its non-self-governing and trust territories. The 1956-established reporting system underwent significant revisions in 1965. By Resolution 1074 C (XxX1X) of July 28, 1965, the Council requested information be submitted over a three-year period in the following order:

(a) Civil and political rights in the first year;

(b) Economic, social, and cultural rights in the second year; and

(c) Freedom of information in the third year. In accordance with Resolution 1074 C, the Sub-Commission on Prevention of Discrimination and Protection of Minorities was mandated to review the documents submitted as part of the reporting process and provide a report to the Commission with recommendations and comments.

Considerable complications developed in 1967, the only time the Sub-Commission was required to act in carrying out this new duty. A Special Rapporteur of the Sub-Commission was asked to draft a brief report outlining the most important advancements in human rights over the time period under consideration. He provided a limited document as an attachment to the research that included a summary of data from observations obtained from non-governmental groups and opinions from the relevant governments. The Sub-Commission voted to withdraw the motion to destroy the Annex by a vote of 8 to 6 with 4 abstentions. (JY The Sub-Commission's sessions were subsequently rescheduled in order to relieve it of further oversight of the reports (Council Res. 123O(XLII) (1967)). In resolution 1074 C, the Commission was also asked to create an ad hoc committee with the responsibility of studying and evaluating the periodic reports and other information received in accordance with the resolution's terms and submitting any objective comments, findings, and recommendations to the Commission. The ad hoc committee was very crucial to the Commission's future sessions. It often created the resolution evaluation report drafts, which the

Commission frequently approved. But these assessments have always been broad in scope. The Ad Hoc Committee and the Commission have never discussed actual events, particular issues, the solutions used, or the outcomes attained. The Commission has taken some steps to give the process greater significance, however. So, for instance, in 1973 (res. 24 (XXIX)), it asked governments to specify the restrictions they had placed on the exercise of civil and political rights and freedoms and, in the case of emergency measures, to detail the extent to which individual freedoms can still be enjoyed, the constitutional and other safeguards which remain valid, and the legal process by which civil and political rights and freedoms will be fully restored. In the same resolution, the Commission urged governments to place more emphasis on challenges faced, such as those faced by the federal government when trying to get support for new legislation from other federal agencies; challenges brought on by unique circumstances, such as the presence of ethnic, racial, or religious minorities in a nation; challenges caused by insurrection or threats to national security; and d In the same resolution and another from 1974 (res. 12 (XXX)), the Commission evaluated the reports and recognized a number of positive advances as well as some areas where issues had emerged.

A proposal to increase the reporting period to nine years was proposed in the Commission in 1971 (E/4949 paras. 291–95). A six-year cycle was introduced by ECOSOC later that year (res. 1596 (L) (1971)). This decision has the potential to delay the reporting of an occurrence that occurred in 1981 until 1987 or even later. Because the ad hoc committee has never attempted to open up a discussion with Governments, the mechanism seems to have done very little in reality.

The possibility exists for non-governmental organizations to participate in the reporting process through the submission of comments and observations of an objective character on the human rights situation designed to aid the Commission in its consideration of the reports (Council resolution, E/CN.4/1226, E/CN.4/1304). In addition, the Committee met in 1977 (E/CN.4/1226), and in 1979 (E/CN.4/1304).

In the later resolution, it was recommended that the Secretary-General provide any pertinent information obtained from NGOs to the State in question for comments. In Council Resolution 1596 (L) of 1971, the significance of NGOs' reports was once again underlined. Nevertheless, it seems that this approach has only sometimes been used. Studies conducted by the UN in the area of human rights. The UN Charter clearly permits research in the area of human rights [articles 13 (1) (b) and 62 (1) and (S)].

As stated by the Commission on Human Rights in 1956 when it launched a program of study of specific rights, studies may be conducted to ascertain the current circumstances and the challenges encountered in the work for the wider observance of human rights. They may also be conducted to educate the public before taking action or, as stated by the Commission on Human Rights in 1956, to inform public opinion. Studies have been specifically conducted in a number of circumstances with the goal of developing an international document, such as a Declaration or Convention. Studies have generally been created by the following individuals or groups:

(1) Specially appointed groups, such as when a Committee of Experts working in their individual capacities created a report on slavery (E/1988);

(2) Special Rapporteurs of the Commission;

(3) Special Rapporteurs of the Sub-Commission;

(4) The specialized agencies at ECOSOC's request; and

(5) The Secretary-General. In the latter scenario, the research is created inside the Secretariat and released as a report from the Secretary-General upon request from the organ in question.

The level and kind of assistance offered by the Secretariat in the preparation of Special Rapporteurs' studies varies noticeably from one to the next. But in every situation, the Special Rapporteur is still in charge of the report's methodology and substance. Governments, the Secretary-General (i.e., published UN documents and unpublished UN information), the specialized agencies, non-governmental organizations, and writings by renowned scholars and scientists are among the sources of information typically used in the preparation of studies."

Other reports might be created much quicker and with far less planning. The right of everyone to be free from arbitrary arrest, imprisonment, and exile was chosen by the Commission as its first topic for examination, subject to the consent of the Economic and Social Council. Resolution 624 B (XXII), section II of the Economic and Social Council ratified this choice on August 1, 1956. To prepare the study, the Commission formed a group of four of its own members.

It delivered a preliminary report to the thirteenth session of the Commission in 1957 and progress reports to the fourteenth through sixteenth sessions in 1958, 1959, and 1960. It delivered a substantive report to the Commission's 19th session (1961), at which point it was decided to send it to Governments for comments.

The Commission then asked the four-member committee to revise the report in light of those comments and to include draft guidelines on everyone's right to be free from arbitrary arrest, detention, and exile in its revised report, which was submitted in 1962. In order to construct the study, the Committee created a monograph on each nation. It was issued in 1964.

It sent the nation monograph versions to the relevant governments for review, confirmation, and discussion before revising them in light of the feedback it got. Where there were no observations, this was indicated. The study is divided into five sections: fundamental principles; arrest and detention of people suspected of committing or accused of committing a crime; detention for reasons unrelated to criminal law, such as the detention of drug addicts and alcoholics; arrest and detention in emergency and exceptional situations; and exile. The proposed principles on freedom from arbitrary arrest are included in Part VI. The Commission's decision to invite the Committee to conduct a separate study on the right of people who have been arrested to contact with individuals who must be consulted in order to ensure their defense or safeguard their fundamental interests was the research's most immediate outcome. (E/CN.4/996) The research was finished in 1969. The Sub-Commission was not asked to prepare a Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment until 1977 (Commission resolution 8 (XxX111)), despite the fact that the draft principles attached to the first study had been circulated to Governments for comments and the topic had been on the agenda for the majority of the intervening years.

DISCUSSION

The International Court of Justice (ICJ), which was formed as the primary judicial body of the United Nations (UN), plays a vital role in interpreting international law, settling conflicts, and addressing important global problems, such as concerns about human rights. In-depth analysis of the ICJ's multifarious role in resolving human rights concerns and offering advisory opinions within the context of the UN is provided in this debate [7]–[9].

Protecting Human Rights

The ICJ's role in handling human rights matters within the UN framework is one of its most important responsibilities. Although the Court's principal responsibility is to resolve legal disputes between States, it is increasingly being given cases with significant consequences for human rights. The decisions of the ICJ strengthen the defense and advancement of human rights on a global scale.

Interpretation of Human Rights Treaties

The ICJ has the authority to interpret human rights treaties and conventions to ensure that their provisions are applied consistently by all States. The Court contributes to the creation of a comprehensive and uniform body of international human rights law by defining the intent and scope of these accords.

Advice Opinions on Legal Matters

Offering advice opinions is another crucial component of the ICJ's mandate. Although advisory views are not legally enforceable, they are sought by a number of UN entities, including the Security Council and General Assembly, to handle difficult legal issues. The Court's unbiased viewpoints assist in resolving complex legal conundrums and contribute in the creation of educated international policy.

Conflict Resolution and Dispute Settlement

The International Court of Justice's involvement in controversial cases involving human rights problems aids in the peaceful resolution of conflicts between States. The Court's rulings establish precedents for future international relations and help prevent crises from worsening.

Promoting International Cooperation

The International Court of Justice's engagement in human rights matters and advisory opinions highlight this institution's function in promoting international cooperation and the rule of law. The Court promotes communication and cooperation between countries by giving States a forum to request decisions and interpretations.

Developing Human Rights Jurisprudence

The ICJ advances human rights jurisprudence via its decisions and judgments. States, lawyers, and academics may better appreciate the intricacies of international human rights law by following these legal interpretations and concepts.

CONCLUSION

Last but not least, the International Court of Justice's engagement in resolving human rights concerns and offering advisory opinions within the framework of the United Nations exemplifies its crucial role in fostering global peace, security, and cooperation. The International Court of Justice (ICJ), the world's top court of appeals, fosters accountability, and offers legal advice on complex issues that have an effect on the whole international community.Before noting some of the major studies currently being prepared, it is useful to trace the development of one specific study in order to obtain some context. It serves as an example of the process' thoroughness, the degree to which the commissioning body and Governments are consulted, and the many delays involved.

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CHAPTER 16

UNITED NATIONS MECHANISMS FOR PROTECTING FUNDAMENTAL FREEDOMS AND HUMAN RIGHTS

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ABSTRACT:

This in-depth investigation examines the complex network of United Nations (UN) organizations and legal frameworks that have been developed as a result of global agreements addressing human rights and basic freedoms. The study explores the development of these standards and clarifies their historical relevance as well as how they have influenced how people now view human rights concepts. The investigation of many important UN entities, such as the Human Rights Council, the International Court of Justice, and UN treaty bodies—each painstakingly analyzed in terms of their purpose, structure, and functioning—is at the heart of the analysis. This study analyzes how various systems cooperate to protect human rights via observation, reporting, and advice while addressing issues with implementation and national sovereignty. This research highlights the multifaceted strategy the UN employs to advance human rights internationally by looking at the symbiotic link between UN specialized agencies and the promotion of certain rights. Additionally, it explores the intricate problem of gender equality and looks at the UN's many initiatives to end discrimination and empower women. The report concludes by reflecting on the successes, shortcomings, and possible changes that define the UN's efforts to preserve human rights and basic freedoms on a worldwide scale.

KEYWORDS:

Fundamental Freedoms, Global Governance, Institutions, Treaty Bodies, United Nations.

INTRODUCTION

Conventions pertaining to human rights and basic freedoms have been approved by the UN either in the General Assembly, at conferences held by it or by the Economic and Social Council. Conventions on human rights have been adopted under the normal rules of procedure of the General Assembly (typically its Third Committee and, in some cases, its Sixth Committee have been involved) or under those adopted by conferences. It is not proposed here to assign to the conventions their place or hierarchical position in relation to other forms of action taken by the United Nations to achieve the goals of the Charter relating to human rights. They might have been approved by a special majority vote or not. While all Member States take part in the General Assembly, any invited non-Member States are also welcome to attend the conferences. Although they were always free to, none of these States have actually participated in the discussions or cast votes on the conventions. No general guidelines for the preparation of human rights conventions have been established, unlike, for instance, the guidelines for the conventions to be drafted by the International Law Commission or the International Labour Organization. The actual number of States attending conferences has varied, but has rarely been very high: 51 States participated in one and 26 in another. It would do to mention that the majority of them have through different phases of writing. Inappropriate situations have led to consultations with and participation from United Nations offices like the Office of the High Commissioner for Refugees, specialized agencies, and occasionally even specific regional inter-governmental organizations.

There has generally been an inquiry into the opinions of governments (sometimes those of non-Member States) on draft conventions. Non-governmental groups having consultative status with the Economic and Social Council have had opportunity to provide written or oral opinions to them at various points throughout the preparation of conventions.

There have been times when suggestions put out, for example, by a specialized agency, have been debated, and in certain cases, supported by a member of the body, before being voted on. A commitment to draft an international bill of human rights was made at the San Francisco Conference in 1945, as noted in previous chapters. The relationship between the Universal Declaration of Human Rights and the International Covenants has been noted. Accordingly, it cannot be assumed unequivocally that all United Nations conventions on human rights contain texts emanating only from governments and that they have no non-governmental contents. In addition to discussing the Covenants and the Optional Protocol, the current Chapter also discusses additional human rights and basic freedoms treaties that the United Nations or conferences that it summoned for their adoption (see appendix I of this textbook). They are all currently in effect. All of the human rights conventions call for ratification or accession by States qualified to do so before they become obligatory on them, regardless of the stance taken by States while participating or not in the adoption of the agreements on human rights. With the exception of the International Convention on the Suppression and Punishment of the Crime of Apartheid, which is open to all States for ratification or accession, States that are Members of the United Nations or members of the specialized agencies, or parties to the Statute of the International Court of Justice, or members of the International Atomic Energy Agency, have typically been eligible to ratify or accede to the conventions [1]–[3].

The number of ratifications or accession required to bring a convention into force ranges from two to thirty-five. The principle of pacta sunt servanda is of general application to all obligations made internationally binding on a State under these conventions.7 The principle is especially relevant in human rights conventions where obligations are equally, if not predominantly, concerned with recognizing, reinforcing, and protecting the rights of individuals. Neglecting the issue of reservations would be impractical since they have an impact on how States parties to a convention interact with one another, the extent and substance of its provisions, and the institutions and processes it establishes, notably for its international implementation. It is regrettable that the International Law Commission's recommendation that clauses or reservations be added to future conventions have frequently been disregarded, nowhere more obviously than in the International Covenants on Human Rights, as stated by the General Assembly in resolution 598 (VI) of January 12, 1952. The Committee on the Elimination of Racial Discrimination, established under the International Convention on the Elimination of All Forms of Racial Discrimination, which contains an article on reservations, has already noted that reservations pose issues for international institutions of implementation. After a protracted debate on reservations, the Committee in 1978 got answers to some of the queries it had sent to the UN Office of Legal Affairs. Then it observed that it agreed with the Office's document's clarifications on the following points:

The Committee must take into account the reservations raised by States parties at the time of ratification or accession: it has no power to do differently.

(a) A reservation made at the time of signature must be confirmed at the time of ratification in order for it to be maintained;
(b) A decision by the Committee that a reservation is unacceptable could not have any legal effect; and

(c) Declarations other than reservations have no legal effect at all on the obligations of the declaring State under the Convention, precisely because if this were not the case such declarations would not have that effect.

The major method of putting the terms of human rights agreements into practice is via national measures, which are necessary to execute a convention's provisions within States parties. These conventions frequently include clauses requiring States parties to follow their constitutional procedures and adopt the necessary legislative or other measures to give effect, gradually or otherwise, as may be necessary, to the rights recognized in the conventions. In several of these treaties, substantive responsibilities are also expressed as obligations to pass legislation or take other domestic actions to fulfill expressly defined ends. The goals of the international institutions and processes outlined below, in particular those of the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenants on Human Rights, and the Optional Protocol to the Covenant on Civil and Political Rights, are to: offer aid, assistance, advice, and cooperation; to direct, persuade, and stimulate self-help, especially under the reporting systems; to provide preventive measures; and to promote international cooperation. Coercion, the employment of harsh penalties, or the imposition of particular consequences are not the goals. When the United Nations has finished debating the topic of "State Responsibility," which is being pursued at the moment by the International Law Commission, more information about the goals of these institutions and processes may very probably become available.

Other than the Convention on the Elimination of All Forms of Discrimination Against Women, which was adopted in 1979, and the 1973 Convention on the Question of Apartheid, none of the other conventions have specific systems of international implementation; however, some of them call for reports and information on how to carry out their provisions, and in the case of the Convention Relating to the Status of Refugees and its Protocol, the Office of the United Nations High Commissioner for Refugees plays a significant role in this process. In the case of several Conventions, the possibility of an international criminal jurisdiction has been raised. The United Nations' institutions and bodies have established reporting requirements and other measures to check if some agreements' provisions are being followed through on in resolutions, not always reserving such activities for States parties. UN bodies including the Economic and Social Council and the General Assembly are included in the implementation process for the Covenants, Protocol, and Convention on the Elimination of All Forms of Racial Discrimination. It follows that the UN system is concerned about a sizable unexplored region that often appears to melt into the implementation mechanism. It would be a big claim to state that any convention's implementation machinery will always be isolated and self-contained. However, this is not exclusive to the human rights agreements of the UN; it may be and often is true of the human rights conventions of the specialized agencies and other inter-governmental organizations.

The presence of this scenario and how it has evolved cannot also be condemned on the basis of specific legal arguments. For without the cooperation of the individual, the community, the States, and everyone else who makes up the international order, it is almost hard to conceive the Covenants being implemented. For instance, it would be unrealistic to consider human rights conferences in isolation from global society, the presence of peace and conflict, political, economic, and social conditions, relations, and development; from population, environment, natural resources, agriculture and land reform, science and technology, health, and education; from issues related to international trade and investments and multinational corporations; and from all of these issues and more. Though it has received more attention

since the San Francisco Conference and the creation of the International Bill of Human Rights, it should be noted that discussion of and provisions for international machinery for the implementation of conventions and agreements on human rights matters, as well as some working experience of them, go back a long way. Its significance was reaffirmed by the Economic and Social Council in Resolution 1101 (XL) of 2 March 1966, in which the Council urged that the organizational and procedural frameworks for the implementation of existing conventions in the field be fully utilized and recommended that future conventions in the field of human rights contain appropriate provisions for their implementation. The institutions and processes for implementing the Covenants' and other agreements' human rights are geared toward the future. That is sufficient justification for considering them in a manner that, although not entirely understandable, has the necessary information to comprehend them and caters to people who are interested in the role that United Nations treaties play in the advancement and defense of human rights. Their potential will not be determined by their historical performance, questionable sufficiency, or even comparison to other international and regional systems.

Only through a multidisciplinary approach, which prevents long-term disunity and aids in resolving deeply ingrained issues and tensions, regardless of how insurmountable they may seem, will they become a living force in promoting and protecting the dignity and worth of the human person and in the pursuit of his or her development, happiness, and equality in larger freedom. As a result, governments and others, especially non-governmental organizations, various institutions, universities, and academicians, as well as writers in law, politics, economics, social, and cultural matters, must have knowledge of and comprehensive treatment of the subject with vision and understanding. Naturally, one must turn to the extensive record of the UN, which has a lot to say about understanding the goals and objectives of the governments and the populations they represent. In order to have a greater understanding of the concerns and challenges that will be faced by international institutions and processes, much more has to be understood about national institutions and systems, both in theory and in reality [4]–[6].

Additionally, there is a need for increased public awareness and participation, discussions between governments, non-governmental organizations, the community, and individuals, as well as for codes and other self-discipline and self-regulation measures in important spheres of public and private life, particularly in many professions, occupations, and organizations. The International Convention on the Elimination of All Forms of Racial Discrimination the Convention, which had 108 States parties as of January 1, 1982, establishes a Committee on the Elimination of All Forms of Racial Discrimination composed of 18 experts who must meet specific qualifications and who are nationals of States parties who are nominated and elected by them. On the basis of reports and information received from States parties to the Convention about the steps they have taken to implement the Convention's provisions, the Committee is able to provide ideas and broad recommendations.

After an initial exchange of interstate communications between the parties and upon the failure of the matter to be resolved to their satisfaction by any means available to them, the Committee extends its good offices to the concerned States parties who submit a matter to it regarding the failure to give effect to the Convention's provisions. The Committee's duties include determining the conditions pertaining to the use of all available home remedies as well as gathering and compiling any data it deems essential. An ad hoc conciliation committee is then created to look into the situation, often with members chosen by the parties to a dispute. After carefully deliberating the issue, the Commission produces a report that may include recommendations for an equitable resolution of the conflict. The Committee may

also receive and take into account communications from people or groups of people who assert they have experienced violations of any of the Convention's rights, provided that the States parties have consented to such consideration through special declarations and at least ten States parties have made the declarations. The Committee has been given advisory responsibilities in relation to copies of petitions and reports that it may receive from the UN's competent bodies regarding all Trust, Non-Self-Governing Territories, and other territories to which the General Assembly Resolution 1514 (XV) on the Declaration on the Granting of Independence to Colonial Countries and Peoples applies. Additionally, it must yearly update the General Assembly on its operations. The Convention includes clauses that address how its implementation process interacts with other United Nations bodies and specialized organizations, as well as clauses from other general or unique international agreements that are now in effect between States parties to the Convention. Additionally, there is a provision engaging the International Court of Justice in dispute resolution.

The Committee on the Elimination of Racial Discrimination

Nature and composition Article 8 concerning the establishment of a Committee on the Elimination of All Forms of Racial Discrimination was based on a compromise between those who wished it to be composed of representatives of States parties (a Committee of eighteen members elected by and from among States parties) and those who desired to have persons with In accordance with Article 8, there are 18 "experts of high moral standing and acknowledged impartiality" who "serve in their personal capacity" on the Committee. Each State Party is allowed to select one of its own citizens. At a meeting of the States parties, elections are conducted by secret ballot; a quorum is established by the presence of two thirds of the States parties. The candidates who get the most votes and an absolute majority of the ballots cast by those in attendance and voting are declared elected. "Equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems" are taken into account while making the decision. Elections for half of the membership are held every two years, with members serving four-year terms. As of January 1982, seven elections have been conducted. The composition of the Committee has been a reflection of the shifting patterns of geographical representation among the States parties, which seem to have recently allowed for the election of three experts from Latin America and Eastern Europe and four each from Africa, Asia, Western Europe, and other States.

Rules of procedure, officials, secretariat, and meeting location are all determined by the Committee in accordance with Article 10 of the Convention. It has so far established general rules based on those of UN bodies as well as specific rules related to Articles 9 and 11 to 13 of the Convention that it has chosen to regard as temporary rules of procedure. I solemnly declare that I will carry out my obligations and exercise my powers as a member of the Committee on the Elimination of Racial Discrimination in an honorable, faithful, impartial, and conscientious manner, according to Rule 14. This is a significant rule that the Committee adopted. The International Court of Justice's members also issued a similar statement in accordance with Article 5 of the Court's regulations. The regulations provide for two regular sessions each year, each lasting three weeks. When the Committee is not in session, special sessions may be called by the Chairman after consulting with the committee officials or at the request of the majority of the membership or a state party.

A quorum of the Committee members is necessary for a meeting in order to take place, but two-thirds must be present in order for a decision to be made. The Committee may create subsidiary bodies as it sees fit. The Committee establishes their organizational structure and missions, but they are free to choose their executives and adopt their own operating methods

as long as they comply with the Convention's regulations and any associated financial costs. Unless the Committee determines otherwise or it is apparent from the applicable provisions of the Convention that the meeting should be conducted in private, the meetings of the Committee and its subsidiary bodies are open to the public. It is evident from the Committee's yearly presentations to the General Assembly that decisions are often made in the Committee without a formal vote. Unless otherwise specified by the Convention, the Committee must now make decisions by a majority vote. Such decisions may be adopted by the affirmative vote of seven members or less in a meeting where a quorum of two-thirds of the Committee members is necessary for decisions because, in accordance with United Nations practice, "members present and voting" are regarded as those casting an affirmative or negative vote.

However, the Covenant on Civil and Political Rights' Article 39 stipulates that the Human Rights Committee's judgments "shall be made by a majority vote of the members present." The Committee has never formally discussed the issue of whether dissenting views or reservations made by individual members should be specifically set out in its reports, but this has typically been done where a member requests it. This is because the reports to the General Assembly frequently set out various views expressed in the Committee, sometimes even identifying the members who made them. The Committee elects the officials of the Committee for terms of two years in line with Article 10.2 of the Convention. In accordance with the general rule of regional geographic distribution, it has so far chosen a chairman, three Vice-Chairmen, and one Rapporteur. States parties pay the Committee members' travel and daily subsistence costs, but the majority of the Committee's costs are covered by the UN's general operating budget. The United Nations will supply the secretariat for the Committee, which entails making employees available for its substantive work as well as all conference and documentation services and facilities. While Article 10 says that the Committee's meetings should typically take place at Headquarters, any sessions that the Committee may convene away from Headquarters that would incur additional costs for the United Nations need General Assembly approval. papers and their accessibility Prior to 1974, only members, States parties, and other parties directly involved could access the Committee's papers, with the exception of the annual report to the General Assembly.

After that, if the States parties so asked, the states reports were routinely made accessible. They have been accessible since 1977, unless States Parties prefer differently. Since 1974, the public has also had access to the complete minutes of public meetings. The Secretary-General and the Committee follow the prescribed procedure "only after receiving from the member concerned, written notification of his decision to cease to function as a member of the Committee." What is required is a personal act consisting of a written notification that should come from the member concerned and express his personal decision, with the exception of a vacancy caused by a member's death or disability. On the basis of this consensus, the rule's author decided to remove the term "directly" from before the phrase "from the member concerned". In order to fill a vacancy in 1976, this process was used. Appointment of alternates or temporary replacements for members Proposals that would have allowed a committee member to name an alternate in certain circumstances have been made but withdrawn; they were opposed primarily because they were at odds with the type of membership that the Convention had specified. Range of information that members may use.

A new rule was proposed to state that members of the Committee may bring up any issue related to the situation described in the documents before the Committee or related to the implementation of the Convention in the territory of the State party concerned when considering reports and information under Article 9 or copies of petitions and reports received under Article 15. In order to carry out their obligations under the Convention, which

did not exclude using such information, they may and should utilize any pertinent information. Additionally, it was claimed that the Committee's practice supported this. However, it was countered that the Convention only permitted reports and information submitted in accordance with Articles 9 and 15 to be used as sources of information by the Committee. Casual vacancies to fill a casual vacancy, the State party whose expert has ceased to function as a member of the Committee appoints "another expert from among its nationals subject to the approval of the Committee." The Chairman stated at the conclusion of the discussion that "it appeared from the discussion that the Committee would con tinue the practice it had followed to date allowing members to use any information they might have as experts." The Secretary-General informed the Committee of Communications about his transfer to other work and inability to continue as a member, as well as the nomination of another person to take his place, when the issue of a casual vacancy first arose. He had received this information from the expert country's Permanent Mission to the UN. The Committee then approved a new version of Rule 13 of its temporary rules of procedure.

Reports and Information form States Parties

Kinds of reports and information from States parties and their purposes Article 9 defines three kinds of reports from States parties: initial reports, biannual reports, and supplementary reports; the first two are referred to as "periodic reports" by the Committee.The Committee "may request further information from the States parties." The reports' goal is to determine what administrative, judicial, legislative, and other actions have been taken by States parties to give effect to the Convention's provisions. Rules 64 and 65 of the Committee state that the Committee "may, through the Secretary-General, inform the States parties of its wishes regarding the form and contents of the periodic reports and, for additional reports or further information, it may indicate the manner as well as the time within which either is to be supplied." The Committee established a set of rules pertaining to the structure and substance of State reports under Article 9 during its inaugural session in 1970. Non-submission of reports and information Per Rule 66 of the Committee, in the event that reports are not received or requests for more information are not complied with, the Committee may send a reminder to the State party in question. These were replaced by a revised set adopted at the Committee's 21st session, in 19802. In the event it doesn't work, the Committee makes a note to that effect in its annual report. In 1981, the Committee stated that as of August 1981, it had received 425 of the 483 reports required by Article 9(I).

Further reports from States Parties have also been received. Consideration of reports and information from States parties the reports and other material provided by States parties have been examined in full Committee and in public sessions. In one example, the Committee had issued a State 12 reminders, while in another, it had sent 1O.2. The Committee has established new rules or approved broad suggestions throughout its numerous sessions and has adhered to certain practices, processes, and techniques for its evaluation of the reports and about their contents, although they are always changing. To fill in the gaps in its guidelines, the Committee initially made general requests for supplementary information rather than additional reports. However, it generally avoided making direct requests to States parties for specific types of additional information. These generic requests were made to the relevant States Parties together with the pertinent records of discussion.

The Committee adopted Rule 64A in response to the General Assembly's statement in paragraph 5 of Resolution 2783 (XXVI) of December 6, 1971, that the work of the Committee would be facilitated if the reports submitted by States parties complied with the standards established by the Committee for that purpose and if the Committee invited representatives of States parties to attend its meetings when their reports were examined.

When their reports are considered, representatives from the States parties may be present. The Committee may also let the State party know that it may provide permission for a representative to attend a particular meeting if it chooses to request further information from that State party. Such a delegate needs to be able to respond to inquiries from the Committee, provide remarks about reports that his State has previously filed, and offer further information. In reality, with very few exceptions, States parties have been represented at the Committee throughout the examination of their reports, making remarks, responding to inquiries, or indicating that they will be covered in their subsequent reports. The few outliers may be attributed to a variety of factors, but not—it would seem—to any State party's determination to refuse cooperation. The regulation is also written in non-obligatory language, and the Committee is nevertheless able to continue considering a report whether or not a representative of the State in question is present. In 1980, the General Assembly (Res 35/40) encouraged all States parties to provide the Committee with their full cooperation and regretted that, on one occasion, only one State party did so.

The Committee also issued Rule 66A in response to GA res.2783 (XXVI) (1971), which includes three paragraphs that outline how the Committee interprets its authority under Article 9 when reviewing State party reports. The first task for the Committee is to "assess whether the report contains the information referred to in the pertinent Committee communications." Second, in practice, specific decisions may or may not be made in this regard for each report if it "in the opinion of the Committee, does not contain sufficient information," but typically States have been asked to submit their subsequent reports in light of the discussions held in the Committee, as reflected in the meeting summaries. Third, "if, on the basis of its examination of the reports and information supplied by the State party, the Committee determines that some of that State's obligations under the Convention have not been discharged, it may make suggestions and general recommendations in accordance with Article 9(2) of the Convention." Of course, the representative of the State party concerned may occasionally present such information at the meetings of the Committee. The Committee has so far approved five broad suggestions and one follow-up request for more detailed information. The main modifications called for the name of the appointed expert to be submitted to the Committee for approval "by secret."

Additionally, it was suggested that the Committee rule out as unsatisfactory any report that suggested a State Party had not fully complied with all of its obligations under the Convention and ask that State Party to provide details on how it planned to do so. Recall that the designation of reports as "satisfactory" or "unsatisfactory" was always meant to refer to the relative completeness or incompleteness of the information provided, not the extent to which the anti-discrimination requirements outlined in Articles 2 to 7 of the Convention had been met. The previous method grew less required, maybe less helpful, and also more likely to deceive as the reports started to more fully satisfy1 the reporting requirements and attention in assessing them centered on the substantive relevance of the information supplied. In its annual report to the General Assembly, the Committee began to reflect on a country-by-country basis its evaluation of the various aspects of the reports of States parties as a whole, as well as the opinions expressed by the Committee or by its members regarding the legislative, judicial, administrative, or other measures which give effect to the proviso. This practice was abandoned by the Committee in 1974.

As a result, the Committee has often adopted various views based on Rule 66A when the representatives of the affected States parties are present. These opinions are typically accompanied by a statement of optimism for ongoing government cooperation with the Committee. Since its third session, the Committee has been informed by reporting States on a

number of occasions that racial discrimination is being practiced on areas of their national territory that are not actually under their effective control as a result of occupation or other de facto control by States that are not Parties to the Convention. There has never been a disagreement among the Committee's members regarding two aspects of such circumstances: the fact that the political or other disputes causing or resulting from the occupation or de facto control of the disputed territories fall outside the purview of the Committee; and the fact that the Committee cannot remain indifferent to reported instances of racial discrimination on the territory of States parties to the Convention. However, there have been disagreements among the Committee's members regarding issues such as the admissibility of the information covered by article 9 of the Convention and the Committee's ability to take any action—or, if it were able to, what kind of action with regard to the information in front of it in order to fulfill its obligations under article 9.

Other issues arose from the fact that none of the States occupying or ruling the territories under consideration had ratified or acceded to the Convention; the Committee lacked the authority to ask them for information, and the Convention forbade it from inviting or allowing their representatives to take part in its review of the reports before it. All of the decisions the Committee has made on these matters since its eleventh session have been reached by consensus. The incidents in question have occurred in the Sinai Peninsula, the West Bank of the River Jordan, Cyprus, the Golan Heights, and the Panama Canal Zone. In the decisions it adopted regarding the reports on those territories, the Committee has: requested further information; asked the reporting State to keep it informed on future developments; taken note of the information before it; taken note of relevant resolutions, adopted by competent organs of the United Nations; taken note of relevant reports of United Nations bodies; expressed its concern; expressed its hope for the restoration of certain basic human rights; drawn the attention of the General Assembly to the information at hand; asked the General Assembly to take certain specified steps; and/or asked the General Assembly to ensure that no changes which have the effect of establishing racial discrimination are brought about in the territories concerned [7]–[9].

DISCUSSION

The United Nations (UN) has established a number of organizations and operational procedures as a result of the international community's commitment to defending and advancing human rights. This debate focuses on the crucial role that these organizations play in defending basic liberties and human rights, many of which have their roots in international agreements.

Setting Human Rights agreements

International human rights agreements serve as the cornerstone for all UN institutions and processes. The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and the Universal Declaration of Human Rights all serve as the cornerstone of the contemporary human rights framework. They provide UN initiatives a common language and a foundation of shared values.

Strengthening Global Governance

UN institutions and processes act as global governance mechanisms, promoting international collaboration to address human rights breaches on a worldwide scale. These organizations exist as evidence of the world community's dedication to upholding a rules-based system that prioritizes non-discrimination, equality, and respect for human dignity.

The Human Rights Council's Function

The UN Human Rights Council plays a crucial role in the advancement and defense of human rights. It meets often to discuss abuses of human rights, evaluate the performance of member nations, and make action recommendations. The Universal Periodic Review procedure, which assesses the human rights records of each member state, is a prime example of the Council's dedication to openness and accountability. The International Court of Justice (ICJ), which serves as the UN's main court, makes a substantial contribution to the protection of human rights. The International Court of Justice (ICJ) establishes legal precedents that uphold the supremacy of human rights in international relations by resolving conflicts between states involving human rights and interpreting international law.

CONCLUSION

In conclusion, the institutions and processes formed on the basis of international agreements serve as an example of the United Nations' commitment to upholding human rights and basic freedoms. Through their many-faceted functions, these processes help to create a society that respects human rights, diversity, and shared responsibility for tackling global issues.UN treaty bodies are in charge of overseeing member nations' compliance with human rights accords. Treaty organizations provide a forum for governments to show their dedication to upholding human rights and participate in constructive debates concerning advancements and difficulties via the filing of periodic reports and interactive dialogues.Initial reports are required from the State in question one year after the Convention's entrance into force. Reports are then expected every two years following that. Anytime the Committee requires them, new reports are required. The words "if necessary" at the conclusion of the paragraph were left out to prevent disagreements between Committee members and the States parties over whether or not the request was essential.

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CHAPTER 17

AN OVERVIEW OF COMPOSITION, PROCESS AND OUTCOMES

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ABSTRACT:

This study explores the creation, procedures, and results of an Ad Hoc Conciliation Commission inside a Covenant, focusing on its function in promoting peaceful settlements. The Commission is a crucial instrument for resolving disputes and was established with the agreement of the relevant States parties. It is made up of neutral people, acts independently, and provides its services to resolve conflicts in a fair and equitable way. Stringent guidelines are used to determine the Commission's composition, assuring objectivity and avoiding conflicts of interest. The Commission's procedures include looking at pertinent data, which is often given by the Committee, and asking the concerned States parties for further information. Although the Covenant does not expressly require the affected parties to participate in the Commission's discussions, it is understood that their participation is essential to the procedure. The Commission's report gives a thorough analysis of factual issues, prospective solutions, and oral comments from the States parties. The result is influenced by the parties' decision to accept or reject the report within a certain window of time. Notably, the report's contents were changed to improve clarity and accuracy. The Committee members and the Ad Hoc Conciliation Commission have been awarded privileges and immunities, which further emphasizes the importance of their responsibilities in promoting amicable resolutions that are consistent with the Covenant. This investigation highlights the Commission's critical role in protecting human rights as guaranteed in the Covenant while illuminating the procedural complexities and possible difficulties in using the Commission for dispute settlement.

KEYWORDS:

Ad Hoc Conciliation, Composition, Committee Involvement, Dispute Resolution, Human Rights.

INTRODUCTION

Establishment and makeup of an ad hoc commission If the Committee is unable to resolve a matter referred to it under Article 41 to the satisfaction of the States parties concerned, it may, with their prior consent, appoint an ad hoc conciliation commission (hereafter referred to as the Commission). The good offices of the Commission are made available to the States parties concerned with a view to an amicable resolution. Any such Commission is made up of real people who the involved States' parties may accept. The members serve in their personal capacity; they cannot be nationals of the States parties concerned, of a State not party to the Covenant, or of a state party which has not made a declaration. If the States parties are unable to agree on all or part of the composition of the Commission within three months, the members of the Commission concerning whom no agreement has been reached are elected by a two-thirds majority vote of the Committee from among its members by secret ballot. Officers, a meeting, the secretariat, and the process for a committee The committee elects its own chairman and establishes its own procedures. Its meetings are often held in Geneva or at its headquarters.

They may, however, be convened in any other convenient locations that the Commission decides upon after consulting with the relevant States parties and the Secretary-General. The Secretariat that the UN provides for the Committee assists the Commission as well. Consideration of a matter by a commission The Covenant provides for the Commission to consider the matter fully. In considering the matter, the information received and collated by the Committee is made available to the Commission and the Commission may call upon the States parties concerned to supply any other relevant information. Unlike Article 41, there is no provision entitling the States parties concerned to be represented when the matter is being considered in the Commission and to make submissions orally and/or in writing.

It is hardly likely, however, that the Commission, which will have come into being with the prior consent of the States parties concerned, will not allow for such participation and submissions, especially as it is specifically provided that, when a solution is not reached, the Commission's report is to contain the written submissions and a record of the oral submissions made by the States parties concerned" Report of an ad hoc conciliation commission When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of it, it submits to the Chairman of the Committee a report for communication to the States parties concerned. If the Commission is unable to finish considering the subject within a year, it limits its report to a succinct update on the progress of that consideration [1]–[3].

The Commission limits its report to a short summary of the facts and the resolution reached in the event that an amicable resolution to the issue is found on the basis of respect for human rights as recognized in the Covenant. In the event that an amicable resolution cannot be achieved, the Commission's report outlines its conclusions on all factual matters pertinent to the disputes between the States Parties and its predictions on the likelihood of an amicable resolution. The written submissions and a record of the oral contributions made by the relevant States parties are also included in the report. The States parties must inform the Chairman of the Committee of their acceptance or disapproval of the report's contents within three months of receiving it. Changes were made, specifically to insert the phrase "and containing its findings on all questions of fact relevant to the issues between the parties and such recommendations as it may consider proper for the amicable solution of the matter."

The original proposal included provisions that were similar to those of the International Convention on the Elimination of All Forms of Racial Discrimination. Narrow majorities approved these paragraph 7 of Article 42 clauses. Questions may be raised about the claim made by the French delegate, who was the change's mover, that "contestations" in French is equivalent to "views" in English (as well as "observaciones" in Spanish). Privileges and immunities of the members of the Human Rights Committee and of an ad hoc conciliation commission in contrast to the International Convention on the Elimination of All Forms of Racial Discrimination, the Covenant states that members of the Committee and of an ad hoc conciliation commission that may be appointed under the Covenant are entitled to the facilities, privileges, and immunities of ex-persons on mission for the United Nations as set forth in the relevant treaties.

Relationships and responsibility allocation between the United Nations and the specialized agencies; connection between the Covenant's implementation provisions and other procedures already established in the field of human rights First off, the Covenant establishes as a general principle that applies to the entire document that nothing in the Covenant is to be interpreted as impairing the provisions of the Charter and of the Constitutions of the specialized agencies Article 23 of the Covenant on Economic, Social, and Cultural Rights has a similar clause.

The provisions for the implementation of the Covenant are to be applied without prejudice to the procedures prescribed in the area of human rights by or under the conventions of the United Nations and of the specialized agencies, and is not to prevent the States parties to the Covenant from using other procedures for resolving a dispute in accordance with general or special agreements, according to Article 44. After much debate over numerous texts and ideas, as well as a separate vote on the last portion of Article 44, it was finally enacted.

A suggestion that stated that the Human Rights Committee was not to act in accordance with Articles 41 and 42 of the Covenant with relation to any case for which any of the aforementioned processes had been used was met with particular criticism. It is hard to provide a precise indication of the extent of Article 44 since it may be contested on several grounds. Dispositions about application and the International Court of Justice The proposed articles of the Covenant involving the Court were removed in the version of the Covenant written by the Commission on Human Rights. The Commission had recommended that under the first of the articles, States Parties would agree that any State Party having been the subject of a complaint or having filed a complaint would, if a resolution had not been obtained within the parameters of what is now Article 41, para. Article 42, present the matter to the Court after the creation of the reports required by those paragraphs.

The second said that States parties were not prohibited by the Covenant's provisions from bringing any dispute arising out of the Covenant's interpretation or application in a topic that fell beyond the purview of the Committee before the Court. The third option would have allowed the Committee to urge the Economic and Social Council to ask the Court for an advisory opinion on any legal issue related to a problem with which the Committee was charged. In addition to these clauses, the Commission draft also included a provision for the International Court of Justice to choose the Human Rights Committee's members. Even though some of the sponsors of the Commission's texts' deletions expressed different opinions, it could be argued that the Court's judgment in the South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa), Second Phase, on July 18, 1966, had an impact on the General Assembly's attitude towards the Court.

However, it is important to keep in mind some remarks made in the Third Committee to the effect that, even in the absence of such specific provisions as those mentioned above, a matter could still be brought before the Court if the States parties involved agreed to do so, that recourse to the Court could be available under the terms of Article 44 of the Covenant, and that the Charter provisions enabling the General Assembly (to which the Human Rights Committee is required to submit annual reports) could also be used to bring a case before the Court.

Annual report on activities presented by the Human Rights Committee to the General Assembly by the Economic and Social Council the Human Rights Committee submits an annual report on its operations to the General Assembly through the Economic and Social Council. A description of the Committee's work under the Optional Protocol is included in the report each year as required by that Protocol. The Committee has provided five yearly reports up till 1982. The Assembly has received these reports so far from the Council without any discussion on their content. The Committee requested that the Assembly invite its chairman to give the Committee's annual report (A/32/44, para. 185), but the Assembly took no action. The Assembly has passed similar resolutions with appropriate amendments that take into account the information in the Committee's findings. All petitioning-related suggestions submitted at the Commission on Human Rights, including those in response to the General Assembly's request to write provisions on it, were either rejected or withdrawn.

The Third Committee of the Assembly debated but ultimately decided against adding an optional item on petition rights to the Covenant in 1966. The Covenant on Civil and Political Rights and the Optional Protocol are independent documents, but they are connected since only parties to the Covenant may also become parties to the Protocol. Consequently, an Optional Protocol was proposed and approved on the topic. As of 1 January 1982, there were 16 States that were both party to the Covenant and the Protocol.

The Protocol and the Covenant entered into effect concurrently. By giving written notice to the Secretary-General, a State Party may at any time revoke the Protocol; the revocation takes effect three months after the notification is received. Any communications filed in accordance with the Protocol before the effective date of the denunciation are nevertheless subject to its rules. The Human Rights Committee, which was formed under the Covenant, is the entity with the authority to receive and act on messages under the Protocol. In general, the different rules of procedure, working techniques, and other Committee activities that have been made public (documents and conversations under the Protocol remain secret) seem to support what was expressed in the Third Committee on behalf of the Protocol's supporters.

It was stated that in applying those conditions "the line of conduct which the Committee was to follow could not be dictated; rules could be drawn up gradually on the basis of experience."05 When questions were asked regarding the criteria which the Committee would apply in deciding on conditions of admissibility of communications under Article 3 of the Protocol, particularly those to be considered "to be an abuse of the right of submission of such communications." Ones who claim to be victims of a violation of any of the rights outlined in the Covenant by a State party to the Protocol (but not just one that is a party to the Covenant) and who have used up all available domestic remedies may submit communications to the Committee.

Any message that is anonymous, violates the submitting rights of others, or is in conflict with the Covenant's requirements must be rejected by the Committee. According to the Committee, the accused victim should typically file a communication. This does not require him to sign the correspondence personally; instead, he may act via a lawfully designated representative. If the accused victim is unable to submit the message on his own, the committee may choose to take it into consideration if the author(s) have a close relationship with the alleged victim (such as a close familial connection).

Communications have been deemed inadmissible if the alleged violations occurred before the Covenant and the Protocol went into effect for the States parties involved, but references to them may be taken into account and considered if the author asserts that they have continued after such date or that they have had effects that themselves constitute a violation after that date.In order to help the authors of communications, the Committee has made a number of recommendations.

In accordance with rule 84 of the provisional rules of procedure, a member of the committee is not permitted to participate in the examination of a communication if he has a personal stake in the matter or if he was involved in any way in the decision-making process regarding the matter at hand. The committee will address any questions regarding these matters. Rule 86 states that the Committee may notify a state party concerned of its views at any time before forwarding its final views on a communication, and that such views do not imply a determination on the merits, regarding whether interim measures might be desirable to prevent irreparable harm to the victim of the alleged violations.

In accordance with rule 89, a working group of the Committee submits recommendations to the Committee about the satisfaction of the requirements for the admissibility of

communications. It typically meets for a week just before to each Committee session and, if required, throughout the session. Without making a determination about the communication's admissibility, the Committee may simply decide to stop considering it. Guidelines are established to enable the Committee and its working group in performing these duties. For instance, in accordance with rule 91, the working group may ask the concerned State party or the communication's author to provide further written information or observations pertinent to the admissibility issue. As was said before, the victim of an alleged infringement must exhaust all domestic remedies before applying under Article 2 of the Protocol.

According to Protocol Article 5(2), the Committee itself may not consider a communication until it has determined that the person has exhausted all domestic remedies and that the same issue is not already the subject of another international investigation or settlement procedure. Neither of these conditions may apply if the application of remedies takes an unreasonable amount of time. Regarding Article 5(2)(a), the Committee has acknowledged that cases considered by the Inter-American Commission on Human Rights represent matters being investigated or settled in line with a different international inquiry or arbitration process.

On the other hand, the Committee has determined that the procedure established by Economic and Social Council Resolution 1503 (XLVIII) does not constitute a procedure under Article 5 (2) (a), as it is concerned with the examination of circumstances that seem to reveal a pattern of grave human rights violations, and a circumstance is not "the same matter" as an individual complaint. The Committee has also ruled that Article 5, (2) (a) may only apply to practices carried out by intergovernmental or state bodies in accordance with such agreements or arrangements.

The Committee has further determined that the subsequent opening of a case submitted by an unrelated third party under another procedure of international investigation or settlement does not preclude the Committee from considering communications submitted to it under the Protocol. Such procedures established by non-governmental organizations, such as the procedure of the Inter-Parliamentary Council of the Inter-Parliamentary Union, are examples [4]–[6].

The Committee has also decided that it is not prohibited from considering a communication even though the same matter has been submitted under another procedure of international investigation or settlement, if the latter procedure has been withdrawn from or is no longer being examined at the time the Committee reaches a decision on the admissibility of the communication submitted to it. The State party is expected to provide information on the effective remedies available to the claimed victim in the specific circumstances of his case if it disagrees with the author of the communication's claim that all domestic remedies have been exhausted.

A general description of the rights available to accused people under the law and a general description of the domestic remedies designed to protect and safeguard these rights have been deemed insufficient by the Committee in this regard. Final action by the Committee and report to the General Assembly (Articles 4 to 6). As soon as practicable after the Committee has determined that a communication is acceptable, that determination and the content of relevant documents are notified to the State party in question, via the Secretary-General, in accordance with rule 93 (1) of the interim rules of procedure. The choice is often conveyed to the communication's author. According to Article 4(2) of the Protocol, the concerned State Party is expected to provide written explanations or representations to the Committee within six months outlining the issue and any potential remedies.

The State party's contribution is transmitted to the communication's author, who may add any further written material or remarks within the time constraints set out by the Committee.

In accordance with rule 93(4), the Committee may even reassess its determination that a communication is acceptable at this point in light of the arguments made by the State party in question. The Committee evaluates the communication in light of the written materials submitted by both parties, assuming it is still acceptable. In order to do this, the working group has been tasked, in line with rule 94(l), with conducting an investigation and providing suggestions to the Committee in order to help it establish its final opinions in accordance with Protocol Article 5(4). The final views of the Committee are forwarded to the State party concerned under Article 5(4) of the Protocol and to the individual under Rule 94. (2) of the Committee's provisional rules of procedure. The Committee has also delegated this latter task to specific members of the Committee who are serving as special rapporteurs for that purpose with respect to certain communications. Under rule 94(3), each member of the Committee may ask that a summary of his own viewpoint be included to the Committee's opinions when they are communicated to the person and the State party in question.

Communications were brought before the Committee between its second session (1977) and its tenth session (1980), according to the Committee's report to the General Assembly in 1980. The messages concerned Uruguay (36) and Zaire (1), as well as Canada (17), Colombia (4), Denmark (4), Finland (3), Iceland (l), Italy (l), Madagascar (l), and Mauritius (l). Of them, 12 were to be studied further before a judgment was made about their admissibility, 17 were deemed inadmissible, 8 were declared suspended or discontinued, and 27 were declared acceptable for consideration on their merits. The acceptance of views according to Protocol Article 5, Paragraph 4 signified the conclusion of consideration of a total of six messages. With one exception, the opinions expressed on these later communications which affected Uruguay were made in 1979 and 1980 referred to violations of several Covenant clauses. These opinions have been described in considerable depth in the General Assembly's yearly reports written by the Committee.

DISCUSSION

Conflict resolution within the framework of a Covenant may be significantly impacted by the creation and functioning of an Ad Hoc Conciliation Commission. This debate sheds insight on the function of such a Commission in encouraging peaceful agreements and maintaining the Covenant's ideals by examining the makeup, procedure, and results of such a Commission.

Comprised of impartiality and knowledge

With the permission of the involved States parties, the Ad Hoc Conciliation Commission is established, assuring their active involvement in the dispute settlement procedure. The makeup of the Commission is essential to its efficacy. The Commission, made up of persons who serve in their individual capacities, is intended to be unbiased and free from any national allegiances that would obstruct the ability to make rational decisions. The legitimacy of the Commission's findings and trust in its recommendations are both boosted by its neutrality. The Commission's procedure is characterized by mediation, in which it extends its good offices to States parties in an effort to bring the issue to a peaceful conclusion. The procedure includes a rigorous analysis of pertinent material, including information given by the Committee. The Commission may also request further information about the dispute from the interested States parties. Although it is assumed that parties should participate during the Commission's discussions even if it is not expressly stated in the Covenant, this is the case.

A thorough report contains the results of the Commission's work. In the case of a mutually agreeable conclusion, the report gives a summary of the facts and the decision made, both of which are in line with the Covenant's fundamental human rights values.

This result demonstrates the possibility of diplomatic solutions and collaborative methods for resolving conflicts while upholding respect for human rights. The report from the Commission is sent to the chairman of the committee, who then informs the interested States parties. These parties have a certain amount of time to express their approval or disapprove of the report's information. This stage of the procedure underscores the fact that the States parties are equally responsible for deciding how the attempts at dispute settlement will turn out [7]–[9].

CONCLUSION

To guarantee accuracy and clarity in the reporting process, the Covenant's requirements have been altered. Changes have been made to incorporate precise conclusions on all factual concerns pertinent to the current difficulties, as well as suitable proposals for a peaceful resolution. The fact that members of the Committee and the Ad Hoc Conciliation Commission have privileges and immunities is an intriguing aspect of this situation. These benefits are similar to those granted to former United Nations employees on assignment, highlighting the significance of their contributions to promoting peaceful solutions within the Covenant's framework.In conclusion, the Ad Hoc Conciliation Commission is a key tool in the Covenant for settling conflicts and safeguarding the ideals of human rights. Its members, procedures, and results demonstrate a dedication to objectivity, teamwork, and adherence to the fundamental values expressed in the Covenant. This situation highlights the need of diplomacy and collaboration in resolving complicated international issues while preserving human rights norms.

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CHAPTER 18

AN EXPLANATION OF THE HUMAN RIGHTS AND THE ILO

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ABSTRACT:

This study explores the complex link between the International Labour Organization (ILO) and human rights. The ILO's labor rules and Constitution have included human rights themes ever since it was founded. This study traces the development of this connection through time, starting with the founding articles of the ILO and ending with the Conventions and Recommendations that have changed labor laws and protected human rights. The abstract emphasizes the ILO's function as an impetus for the advancement of equitable pay, associational freedom, nondiscrimination, workplace safety, and the defense of vulnerable groups. The summary highlights the ILO's commitment to promote dignity, justice, and equality within the field of labor by looking at the fundamental principles of the Constitution, the significance of the Declaration of Philadelphia, and particular treaties addressing human rights. In the end, the legacy of the ILO in furthering human rights is evidence of its ongoing commitment to global social justice.

KEYWORDS:

Constitution, Equality, Human Rights, ILO, Labor Standards, Workplace Safety.

INTRODUCTION

Human rights have been given a significant place in both the International Labour Organization's (ILO) Constitution and its Conventions and Recommendations since 1919. These documents have also served as a major source of inspiration for international and regional texts relating to economic and social rights as well as some civil and political rights. Part XIII of the 1919 Treaty of Versailles included the original language of the ILO Constitution, which was revised and enlarged in 1946. Part XIII of the Treaty of Versailles, which is the ILO Charter, not only establishes procedural rules for the organization, but it also lays out some general principles.

According to Rene Cassin, these principles "constitute a genuine declaration of the worker's rights" and "provide a basis for the notion of international common law regarding essential individual liberties." The general principles established by the ILO Constitution are contained in the first place in its Preamble, according to which “conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled; and an improvement of those conditions is urgently required: as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organization of vocational and technical education and other measures”.

The "Declaration concerning the Aims and Purposes of the ILO" made by the International Labour Conference in Philadelphia in 1944 and incorporated into the ILO Constitution in 1946 also contains fundamental organizational ideas. This Declaration includes the following statements, among others: "I The Conference reaffirms the fundamental principles on which the Organization is based, and in particular, that

(a) Labor is not a commodity;

(b) Freedom of expression and of association are essential to sustained progress; and

(c) Poverty anywhere constitutes a danger to prosperity everywhere.

All people have the right to seek both their material well-being and their spiritual development in circumstances of freedom and dignity, of economic stability, and of equal opportunity, regardless of their race, creed, or sexual orientation. These fundamental principles have helped the ILO's institutions create specific Conventions and Recommendations by acting as more than just suggestions. They have also served as basic norms, which have had some immediate legal repercussions. As a result, the establishment in 1950 of specialized machinery for the protection of freedom of association, which is covered below, was made possible by the fact that the principle of freedom of association was affirmed by the ILO Constitution, into which the Declaration of Philadelphia was incorporated. In 1964, the International Labour Conference, "acting as a spokesman for the social conscience of mankind," held that the apartheid policy in South Africa was in conflict with the Declaration of Philadelphia, which the South African government had agreed to uphold in accepting the ILO's Constitution. It was on the basis of this that it denounced the policy and submitted a comprehensive plan to end it in the field of labor [1]–[3].

Human Rights and The Conventions and Recommendations of the ILO

Despite the prominence of human rights in the ILO's Constitution and the notable outcomes, the Organization has based its efforts to advance and defend human rights within the scope of its authority on the Conventions and Recommendations it has ratified. Conventions are legal documents that aim to impose responsibilities on the States that ratify them, while Recommendations are meant to describe norms rather than impose obligations on governments. Since these topics are covered elsewhere in this book, it is not essential to go into depth about the context of these distinct works or how they relate to human rights. In addition, numerous studies and official reports have addressed the issue. I will only provide a very general overview of the body of standards, which is sometimes referred to as the "International Labour Code," in order to help readers better understand the significance of the machinery put in place for their implementation. The International Labor Organization (ILO) adopted a total of 156 Conventions and Recommendations between 1919 and 1981; it can be said that almost all of these documents deal with the promotion and protection of human rights in a broad sense, as even the most technical of them mention specific elements of the right to just and favorable working conditions guaranteed by article 7 of the International Covenant on Economic, Social, and Cultural Rights. However, several of these texts most notably the conventions on freedom of association, the most important of which is Convention No. 87 of 1948 are more specifically concerned than others with basic rights and freedoms. In this regard, a resolution passed by the International Labour Conference in 1970 emphasized that trade union rights should be based on respect for the civil liberties outlined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, in particular, and that the absence of such civil liberties renders the concept of trade union rights meaningless. Special mention must also be made of the 1930 and 1957 Trade Union Acts.

Last but not least, the 1958 Convention and Recommendation (No. 111) concerning Discrimination in Respect of Employment and Occupation are fundamental documents that served as the basis for later conventions pertaining to discrimination that were adopted by UNESCO and the United Nations. Similar to this, the 1951 Convention (No. 100) and Recommendation (No. 90) on Equal Pay have had significant effects. Additionally, a number of Conventions have been ratified to safeguard migrant and international workers. A number of Conventions and Recommendations have addressed various aspects of the right to work, including unemployment, employment agencies, vocational training and apprentices, employment services, and, starting in 1964, employment policy, which aims to encourage full, productive, and freely chosen employment. Conventions pertaining to minimum wages, wage protection, and social policy as a whole all address the right to fair compensation. Numerous Conventions have addressed the right to adequate working and living circumstances, particularly with regard to the weekly rest period, paid vacations, workplace safety, and health. Several publications defining a general minimum norm or addressing specific sections have addressed the right to social security. Through conventions pertaining to issues like the minimum age for employment, the ban on night labor, medical examinations, and working conditions, the protection of children and young people has been sought. When it comes to women's work, some conventions aim to end all discrimination in pay between men and women workers, while others are made to protect women in the event of childbirth or from particularly grueling working conditions, like night work, work in mines, etc.

Interpretation of the ILO Constitution and Conventions

The International Labor Organization's Conventions, like its Constitution, may offer interpreting issues that may be brought to the International Court of Justice (Article 37 of the ILO Constitution). Only a tiny number of cases have asked the Court for opinions in this respect. The same article of the ILO Constitution also allows for the appointment of a tribunal for the swift resolution of any controversy or issue pertaining to the interpretation of a Convention, although this option has not yet been used. On the other hand, the Director-General of the International Labour Office is frequently consulted by governments regarding the interpretation to be given to a specific provision of a Convention. His opinions are shared with the Governing Body of the Office and published in the Official Bulletin, though he does state that he lacks special competence in the area. Such viewpoints provide reliable support for this claim and seem to be accepted informally. As stated below, the ILO has established a number of quasi-judicial organizations to oversee and encourage the application of international labor conventions and, more broadly, of the organization's norms and ideals. These organizations have to specify the precise parameters of the standards in order to complete this mission. As a result, they have progressively built up a substantial corpus of case law in the true meaning of the word. This is especially true for the Committee of Experts on the Application of Conventions and Recommendations, which has often found it essential to take the impact of specific Convention provisions into account while reviewing the degree of application of ratified Conventions every year since 1927.

The Committee on Freedom of Association, which is also covered below, is another body that has developed a sizable body of case law. This role of interpretation has been particularly significant in regard to Conventions written in general terms, particularly in regard to forced labor, freedom of association, and, more recently, discrimination in employment. This case-law has clarified and, in some cases, supplemented and expanded the criteria explicitly contained in the Conventions and has been the topic of a special publication. It must, of course, be interpreted in the context of each individual instance.

Convention ratification A global labor convention is only enforceable by States that have ratified it. Article 19 of the ILO Constitution outlines actions to encourage the ratification and implementation of Conventions. According to this article, all Organization Member States must submit each Convention and Recommendation to their competent national authorities no later than twelve or eighteen months after they have been adopted so that those authorities may examine the possibility of giving them effect.

If those authorities decide in the affirmative, States must communicate to the ILO the ratification of the Convention. The ratification of the international labor conventions has been quite widespread. This number had surpassed 4,800 in 1980. Additionally, non-metropolitan territories have filed 1,040 declarations of application on their behalf. Depending on the nation and the Convention, there are a wide range of ratifications.

Accordingly, forty-five States have ratified on average more than forty conventions, and eighteen have ratified more than sixty, while nine States have ratified less than 10 conventions. For each Member State, the average number of ratifications is sixty-eight for West European nations, forty-nine for East European nations, thirty-eight for American nations, twenty-six for African nations, nineteen for Asian nations, and thirty-two for Oceania. The total number of ratifications has been ratified by sixty percent of developing nations.

It is important to note in this context that the new States that join the ILO have confirmed they will continue to be bound by the obligations previously taken on their behalf by the States in charge of their international relations by virtue of a practice that is almost universally followed by those States. More than 1,000 ratifications signifying the confirmation by sixty new States of commitments previously accepted in the name of the area established by those new States prior to their independence have been registered as a consequence of this practice of State succession. The ILO's organs have enthusiastically supported it, especially the First African Regional Conference that took place in 1960.

The number of ratifications varies significantly amongst the Conventions as well: twenty-one Conventions have gotten more than sixty ratifications, while 42 of the Conventions have each obtained more than forty. Particularly, each of the six Conventions (freedom of association, forced labor, discrimination, etc.) immediately relevant to basic rights has had an average of 104 ratifications.

The procedures and bodies established by the ILO for the purpose of ensuring the protection of the human rights outlined in the Constitution and in the Conventions and Recommendations of the Organization" have a dual goal: on the one hand, to supervise the execution by States of the obligations assumed under the ILO Constitution or by virtue of the ratification of a Convention and, on the other hand, to promote, regardless of any formal obligation, the application of those rights. This machinery may be broken down into two groups: the legislative machinery that applies to all ILO agreements and recommendations, and the machinery that is more specifically related to the global protection of the right to organize.

Additionally, a number of other techniques are used, including research and study, training and teaching approaches, and technological cooperation. Two main types of machinery have been established to monitor and encourage the application of the standards found in the ILO's Conventions and Recommendations: permanent automatic supervision based on the examination of reports provided by governments, and legal proceedings based on the filing of complaints.

Permanent Supervision based on the Examination of Reports from Governments

The three distinct kinds of reports that Member States are required to submit to the ILO in accordance with the Organization's Constitution (Articles 19 and 22) give rise to three distinct tasks. The reports cover the following topics: -information regarding the steps taken to bring the Conventions and Recommendations before the competent authorities, no later than twelve or eighteen months after the adoption of those texts, with specifics of the authorities considered to be competent, and of the action taken by them;'" annual, two-yearly, or four-yearly reports on Conventions ratified; the relevant rules are designed to secure more frequent reporting for certain Conventions.

The Governing Body of the ILO has established detailed forms for these reports, which must be written on the basis of the following information; for Conventions that have not been ratified and for Recommendations, reports at intervals requested by the Governing Body, concerning national law and practice, showing the extent to which the State concerned has given effect or proposes to give effect to those texts, and stating the difficulties that prevent or delay the ratification of the concerned Convention or the applicable Recommendation. According to Article 23, paragraph 2, of the Constitution, governments are also required to provide copies of their reports to national employers' and workers' groups. Governments are required to communicate any remarks made by these groups to the ILO and are also permitted to provide their own opinions.

Governments provide around 3,000 reports overall each year. The Committee of Experts on the Application of Conventions and Recommendations, an independent body, and the Committee on the Application of Conventions and Recommendations, a body made up of representatives of governments, employers, and workers, both established at the International Labour Conference, are tasked with reviewing these reports. The 1927-founded Committee of Experts on the Application of Conventions and Recommendations is made up of individuals with reputable credentials who are totally independent of governments. The members of the Committee are chosen by the Governing Body of the ILO on the Director-General's suggestion, not the governments of the nations they are citizens of, which highlights their independence. They are selected from a group of highly competent individuals in the legal and social sectors, mostly from the judiciary, education or from a group of former politicians.

The Committee has always believed that its duties consist in highlighting "in a spirit of complete independence and entire objectivity" the degree to which the situation in each country complies with the terms of the Conventions and with the obligations assumed by that country by virtue of the ILO Constitution. These fundamental principles have guided the Committee ever since it was established. The Committee's members must carry out their duties completely impartially toward all member States.

Twenty people from different parts of the globe presently make up the Committee of Experts. The experts are hired for three-year terms, and their terms are often renewed since continuity allows for more familiarity with the topics the Committee addresses as well as greater independence for its members. Although the Committee of Experts is not a court, its mandate requires it to evaluate the degree to which national law and practice are in accordance with the terms of the ILO Constitution or Conventions. Its assessment authority is based on the language of the Conventions under consideration and is hence quite wide when it comes to Conventions setting criteria that are described in general terms (such as those pertaining to forced labor or the right of association).

The Committee must, of course, determine the scope that should be assigned to such international standards in order to provide its opinion about the compliance of national laws in such circumstances. The case-law that has been established in this area throughout time has been quite influential. When it comes to Conventions that call for the gradual application of a principle while taking into account the practices in use in the country in question (such as equal pay, employment discrimination, and employment policy), the Committee's power of assessment is also broad. In these situations, the Committee's responsibility is to determine annually whether each State's actions are in good faith accordance with the dynamic nature of the Convention and local circumstances. The Committee divides up the initial responsibility for the issues that will be studied among its members, or among working groups made up of several of its members. Following this preliminary work, the Committee as a whole review and approves the final remarks [4]–[6].

The International Labour Office's services make up the Committee's secretariat. The Committee's process is based on documentation because it evaluates situations using reports from governments, legislation, and any other pertinent documentation (such as observations made by national employers' and workers' organizations) as well as responses from governments to any remarks the Committee may have made. The Committee's views are offered as either individual remarks or broad surveys. When the Committee is asked to provide its opinion regarding how each State is carrying out its international obligations with respect to the ILO, including the application of ratified Conventions and compliance with the requirement to submit Conventions and Recommendations to the competent authorities, it does so individually.

These remarks come in two different forms: in the most significant cases, the Committee makes observations on any discrepancy it has identified (these observations are included in the printed report of the Committee); in other cases, the Committee makes requests directly to the government in question so that it may respond in its subsequent report (these requests are not published in the printed report of the Committee, which merely mentions cases in which such requests have been made).

If the government does not respond or take the required action in a fair amount of time, the issue may become the focus of a public observation. With this approach, the Committee hopes to only include the most crucial inquiries in its printed report and give governments enough time to respond to them before the issue is made public. There is extensive usage of the direct request technique. About 400 observations and 800 direct requests on the implementation of ratified Conventions were made by the Committee of Experts in 1977. A general survey about a particular topic is conducted annually by the Committee of Experts on the basis of reports requested from all States regarding the pertinent Conventions and Recommendations, regardless of whether those States have ratified the Conventions under consideration.

This general survey is conducted in addition to these two types of individual comments. The purpose of these studies is to assess potential barriers to the implementation of the relevant texts and, if possible, provide solutions to those barriers by describing the situation that exists in the different States in this respect. The fundamental human rights conventions have been the subject of several general surveys in recent years, including ones on freedom of association (in 1973), forced labor (in 1962, 1968, and 1979), discrimination in the workplace (in 1963 and 1971), employment policy (in 1972), and equality of opportunity (in 1975 and 1980). The International Labour Conference's Committee on the Application of Conventions and Recommendations.

The International Labour Conference establishes a committee at each of its annual sessions, made up of representatives of national employers' and workers' organizations and governments, with the duty of reviewing the issue of the execution of conventions and recommendations. This Committee has more than 100 members, and has over the last several years. It. It uses the report of the Committee of Experts as the foundation for its work and urges the relevant governments to explain the inconsistencies raised by that Committee and the steps they have taken or are considering to resolve them. Starting with the written or verbal responses from the governments, discussions sometimes very spirited ones are conducted before the representatives of the workers and employers talk, sometimes with vehemence, about how the Conventions are put into practice, whether in their own nation or in others. In a report that it sends to the Conference and discusses in plenary session, the Committee compiles its deliberations and conclusions. In order to focus its attention on the most important instances in the short time it has available, the Conference, like the Committee of Experts, has had to adopt a more selective approach due to the constantly growing number of inquiries. Thus, it selects what it believes to be the most significant observations from those made by the Committee of Experts. It restricts its discussion to these instances and asks governments to address the remaining issues in their next annual reports. The Committee of Experts chooses around 120 of the 400 observations for debate. Since 1957, the Committee of the Conference has specifically highlighted cases in its general report where governments "appeared to encounter serious difficulties in discharging obligations under the ILO Constitution or under Conventions which they have ratified" based on a set of criteria.

The Committee has always emphasized that its role is not that of a court and that placing a nation on this list does not constitute a sanction; rather, it is meant to highlight the most serious cases in order to help find solutions to the issues that have arisen. Nevertheless, this "special list" is frequently seen by the governments involved as a form of moral sanction, and being included on the list occasionally sparks lively discussion The governments that are included on it often take extraordinary measures to address the issue that led to their inclusion. The Committee has also specifically called the Conference's attention to a few other examples over the last several years on which it has had in-depth deliberations. "Direct contacts" with the authorities. The nature and short duration of the discussions in the Committee of the Conference, along with the fact that the Committee of Experts' process is primarily based on documentation, have occasionally led to drawn-out disputes with governments where there hasn't been enough time to allow for a thorough examination of the pertinent issues. Thus, in 1968, a process for "direct contacts" with governments was established. When specific and sufficiently significant issues are found in the implementation of Ratified Conventions, this procedure—which is commenced on the request or with the consent of the governments concerned—is launched in accordance with particular principles specified by the supervisory organizations. It entails extensive consultations between the government authority and a representative of the Director-General of the ILO (who may be either an independent person or a qualified official of the ILO).

During these consultations, contacts with national employers' and workers' organizations are also made. In order to be able to consider the conclusion of this process, the supervisory bodies pause their investigation of the matter in question during this procedure for a suitable amount of time (often no more than a year). In some thirty countries, primarily in Latin America but also in Africa, Asia, and Europe, this procedure, which aimed to create a wider and more fruitful dialogue between the ILO and the governments concerned, was used from 1969 to 1979. The results, on the whole, were distinctly positive.

The process has also been helpful for examining barriers to Convention ratification and enabling states to provide the reports and information required under the ILO's Constitution. In any case, the activities and duties of the Committee of Experts and the Conference Committee are in no way limited by these direct connections, which primarily serve to facilitate better implementation of ratified Conventions.

This Committee, which has acquired world renown, is appointed by the Governing Body of the ILO from among its members, and comprises nine Members. Owing to the quasi-judicial nature of its functions, its procedure is accompanied by various measures whose purpose is to ensure its impartiality. Continuity has been ensured, in particular, by the fact that, since it was set up in 1951, it has had but two Chairmen: Paul Ramadier, former Prime Minister of France, during the first ten years; and, since 1961, Roberto Ago, professor of international law at the University of Rome, former Chairman of the Governing Body of the ILO, and more recently, judge at the International Court of Justice.

The Committee generally conducts its business on the basis of documents, but in several cases independent persons representing the Director General of the ILO, accompanied by an official of the ILO, have made on-the-spot investigations, at the request or with the agreement of the government concerned, to establish the facts, meet representatives of the government, the employers and workers concerned (sometimes including trade unionists under detention), and submit a report to the Committee. Thus, the “direct contact” procedure, mentioned above, is tending to be increasingly used in this field, at the request or with the agreement of the governments concerned, Uruguay in 1975 and 1977, Bolivia in 1976 and Argen tina, Chile and the Dominican Republic in 1978.

The Committee was originally intended to be a body responsible for making a preliminary examination of complaints and recommending to the Governing Body of the ILO whether some of them merited being referred to the Fact-Finding and Conciliation Commission, which is discussed below. When it was subsequently found that there were difficulties in the way of referring them to that Commission, the Committee on Freedom of Association itself proceeded to examine the substance of complaints and submitted to the Governing Body detailed reports with proposed conclusions and, when necessary, suggested recommendations to be made to the governments concerned.

Most of the time, the Governing Body has approved these recommendations without discussion. Close to 1063 cases have been referred to the Committee since it was created. These have concerned widely varied aspects of freedom of association. Legislation alleged by the complainants to be contrary to the principle of freedom of association, measures taken by governments, such as the dissolution of trade unions, the arrest of trade union leaders, interference in trade union affairs etc.

In examining the cases referred to it, the Committee has taken as its basis the general principles of freedom of association and has been guided by the provisions contained in the Conventions adopted in this field. In delivering its opinions in regard to hundreds of cases, it has been led, as was pointed out above, gradually to build up a considerable body of case law which has often related to various civil liberties on which depend the effective exercise of trade union rights, such as the right of assembly, freedom of expression, the right to personal security, etc. The Committee has thus emphasized on several occasions the importance which, in all cases, including those where trade unionists are accused of political or criminal offences considered by the government to have no relation to their trade union activities, it attaches to the principle of prompt and fair trial of the persons in question by an impartial and independent judicial authority.

The Committee has more generally taken the attitude that, in view of the nature of its responsibilities, it cannot consider itself bound by the rule relating to the exhaustion of domestic remedies which applies, for instance, in cases of international arbitration.

However, whenever the case referred to it is pending before an independent national judicial body whose proceedings afford appropriate guarantees and when it considers that the decision to be reached is likely to furnish it with additional elements of information, the Committee suspends examination of the case for a reasonable period pending its being in possession of that decision, if no further prejudice will be caused by such delay to the party whose rights are alleged to have been violated. The effect of the activity of the Committee on Freedom of Association has been very uneven. In several cases, the States concerned have taken account of the Committee's recommendations by amending legislation, by releasing imprisoned trade union leaders or by taking measures of clemency. In other cases, these recommendations have had no effect. Yet in other cases, while no result has been obtained in the short run, there remains the possibility of an effect being produced in the longer term.

As the effectiveness of international procedures hinges to a large extent on the continuity and perseverance of that action, the recommendations of the Committee on Freedom of Association are, in the case of States that have ratified the Conventions on freedom of association, brought to the attention of the Committee of Experts on the Application of Conventions and Recommendations in order that that Committee may take steps to be regularly informed of the matter. For States that have not ratified those Conventions, the procedure of the Committee on Freedom of Association has, for some years, made it possible periodically to ascertain the effect given by governments to the recommendations made to them.

DISCUSSION

The ILO and Human Rights

The complex relationship between human rights and the International Labour Organization (ILO) has had a significant impact on social justice and labor practices worldwide. The symbiotic connection between these two institutions is explored in this debate, along with its historical development, the ILO's role in advancing human rights, and its larger ramifications for the global community. The crucial significance of human rights has been acknowledged by the ILO ever since its founding in 1919.

The basic text of the organization, the Constitution, created the foundations by including ideals that place an emphasis on the welfare, dignity, and equal treatment of employees everywhere. This dedication demonstrates the ILO's understanding that human rights are inextricably linked to labor rights.

The ILO Constitution demonstrates a commitment to defending basic human rights in the context of the workplace. It articulates a set of broad principles intended to alleviate working circumstances that cause social discontent and international instability in addition to outlining procedural norms. These values include laws governing working hours, safeguards against illness and injury, equitable pay, and the freedom of association idea. The ILO's dedication to upholding human rights is reaffirmed by the "Declaration concerning the Aims and Purposes of the ILO," which was approved in Philadelphia in 1944 and included into the ILO Constitution. The Declaration underscores the need of freedom of speech and association for long-term growth and emphasizes that work is not a commodity. It also acknowledges that poverty everywhere is a danger to global development.

Human rights are impacted by the ILO in ways that go beyond its Constitution. Many Conventions and Recommendations that address various facets of worker rights have been approved. Among them include preventing discrimination (Convention No. 111), guaranteeing equal pay (Convention No. 100), defending migrant workers, and fostering workplace safety. The preservation of basic civil and labor rights is a clear emphasis of several Conventions, especially those that deal with freedom of association (such as Convention No. 87).

International labor standards that uphold and enhance the ideals of human rights were pioneered by the ILO. The organization has influenced worldwide labor norms and helped millions of people by improving working conditions via its specialized Conventions and Recommendations. In keeping with its dedication to fair treatment and social justice, it has also fought for the protection of vulnerable groups including children and migrant workers. Beyond labor laws, the ILO's commitment to human rights has shaped larger society viewpoints. The group has sparked societal change by advocating for equality, non-discrimination and just remuneration. It has also drawn attention to how closely labor rights are related to broader human rights ideals [7]–[9].

CONCLUSION

In Conclusion in the realm of work, the ILO and human rights organizations have a same goal for human dignity, fairness, and justice. The ILO is still a crucial ally in the defense and advancement of human rights in the workplace, notwithstanding its ongoing evolution. Its guiding principles and objectives serve as a model for integrating labor laws with worldwide efforts to uphold basic human rights.In addition to specific cases where the Committee’s recommendations have been acted on, this procedure has resulted in the establishment, in the field of freedom of association, of a general accountability for governments and even a sort of habit for them to report on the measures taken by them in that field. This obligation has also undoubtedly played a preventive role in respect of the action of the public authorities. Finally, the working of the procedure has helped to gain wider recognition for the international value of the principles of freedom of association.

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CHAPTER 19

AN OVERVIEW OF THE ILO'S ACADEMIC PURSUITS AND RESEARCH MISSIONS

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ABSTRACT:

This abstract explores the importance of scholarly research and ILO research missions that have been carried out to look at the vital idea of freedom of association. This debate stresses the ILO's role in evaluating trade union conditions, spreading the concepts of freedom of association, and focusing on how these efforts have influenced how people interpret labor rights. The ILO has aided in enlightened discussion, unbiased evaluations, and the alignment of labor practices with global norms via its research projects and fact-finding missions. This abstract emphasizes the complex character of these endeavors, demonstrating their critical contribution to societal advancement and the advancement of human rights in the workplace.

KEYWORDS:

Freedom Association, Human Rights, Labor Conditions, Labor Rights, Trade Unions.

INTRODUCTION

The bulk of these research projects and academic papers have focused on freedom of association. They have occasionally been given to ILO missions that have traveled to specific nations at the invitation of the host government in order to collect thorough and unbiased information on the trade union situation that had come under scrutiny internationally (for example, in Hungary as early as 1920 and Venezuela in 1949). Sometimes, although addressing all of the nation's labor issues, the research has partly been influenced by concerns about the state of the labor unions (as in Greece in 1947).

In other instances, the study's scope was broader in that it included all of the Member States or a specific subset of them. In order to assess the independence of the employers' and workers' organizations of all ILO Member States, a committee made up of independent individuals was given the task in 1955. The committee was headed by Lord McNair, a former president of the International Court of Justice. The Governing Body established machinery from 1958 to 1963 to gather data pertaining to the freedom of association in Member States after the Committee delivered its findings. The goal of these investigations, which were entrusted to the International Labour Office itself, was to study the de facto situation, in contrast to the processes for the purpose of examining a complaint.

Thus, on the request of the relevant governments, missions made up of ILO officials visited the U.S.A., U.S.S.R., United Kingdom, Sweden, Malaya, and Burma. They published reports that were meant to provide a complete picture without trying to pass judgment on the issues themselves. These studies allowed for a deeper understanding of the circumstances in the different nations involved. More recently, in 1967, the Government Body of the ILO established a study group (composed of independent persons) in response to a request from the Government of Spain, which at the time had not ratified the Conventions on freedom of association [1]–[3].

This was not a complaint-based procedure, though the Committee on Freedom of Association had previously looked into complaints about the trade union situation in Spain. Instead, the analysis focused on the actual situation in a nation, independent of any international obligations the nation may have taken on and outside of any complaint that could have started the process. The Governing Body of the ILO had mandated that the investigation be conducted in light of the values outlined in the ILO Constitution.

In this regard, the group made note in its report that it had been particularly inspired by the idea that "freedom of expression and of association are essential to sustained progress," which, since it is found in the Declaration of Philadelphia, is a part of the United States Constitution. The study group also emphasized that while it was not a commission of inquiry, fact-finding and conciliation, and did not have judicial authority, its duties had to be carried out in a legal way. Its members were obligated to report their findings without fear or favor, and they were not only required to provide a factual account of the current situation but also to evaluate how it related to the ILO's guiding principles and speculate on possible directions for future development. Similar to how the Fact-Finding and Conciliation Commission and the Commissions of Inquiry conducted themselves, so did this method.

The Director-General of the ILO and the government created all the essential safeguards in a special preliminary agreement, allowing the group to carry out its duties with total independence and objectivity. These requirements included, among other things, the group's complete freedom of movement, the right to conduct private talks and interviews without witnesses present, and assurances that no one who would come into contact with the group would ever be subject to coercion, sanctions, or punishment as a result. The committee traveled to Spain in March 1969 after hearing from officials of the government and the three main international workers' groups in Geneva. It split its time between official visits and consultations, particularly with ministers and senior officials, the highest judicial authorities, and employers' and workers' representatives from the Spanish trade union organization, and private interviews with individuals ranging from ecclesiastical authorities and professors of law to public opposition figures and trade unionists in prison. The group's final report includes a thorough assessment of the situation in Spain as well as some insights on potential outcomes. Particularly, it came to the conclusion that although only Spaniards could decide how things would turn out in the future, "Spain's place in the world will be significantly influenced by her attitude toward world standards."

The study group emphasized in this regard the "unequivocal" international and regional standards that apply to labor and trade union matters as well as to civil liberties. These standards, it was noted, are contained in the European Social Charter, the International Covenants on Human Rights, and the International Labor Conventions, particularly those that address freedom of association. No State, the group said, "can escape comparison with them and evaluation of the measure of freedom which it secures to its people on the basis of the comparison," even if these criteria do not impose contractual obligations on any State unless that State has ratified the relevant instrument. When the ILO Governing Body took notice of this study in November 1969, it also resolved to take steps to guarantee its broad dissemination. As a result, the report played a significant role in the talks that followed about Spanish trade union law. The principles of the ILO and the Report of the Study Group were clearly taken into consideration more recently with the change in Spain's political climate when new trade union legislation was adopted in April 1977 and the Convention itself was ratified by Spain a few days later.

Forced Labor

Since 1921, in conjunction with the League of Nations, unique methods of investigation and analysis have been employed with regard to forced labor. From 1926 forward, a Committee of Experts on Indigenous Labor was established. The work of a Special Committee on Forced Labor, established in 1951 by the International Labour Office in conjunction with the United Nations and carried out until 1959 by a Committee of Forced Labour established by the International Labour Office, contributed to the adoption of the Abolition of Forced Labor Convention, 1957 (No. 105), among other things, after the Second World War.

Discrimination

In order to facilitate the implementation of the Discrimination (Employment and Occupation) Convention, 1958, the Governing Body of the ILO approved a formula for studies of national situations in regard to discrimination in employment in 1973 as an experimental measure. Such studies, which would require more or fewer in-depth contacts in the country in question, could be requested by governments looking for an unbiased, outside opinion, or, with the consent of the government in question and under specific circumstances, by employers' or workers' organizations or the government of another nation whose interests would be impacted. An ILO official, expert, or group of experts would conduct the studies, and their structure and the circumstances in which they would be conducted would be decided by the ILO Director-General in consultation with the relevant government, which should always provide the necessary guarantees. In order to study the issue of equal opportunity for and treatment of the Arab employees in those regions, an ad hoc mission of Israeli authorities traveled to Israel and the occupied territories in 1978, 1979, and 1980. The reports sent to the International Labour Conference detailed the findings and recommendations of the mission. Education and training initiatives The ILO's standards are also intended to be implemented via a variety of educational and training initiatives, such as the workers' education program the ILO launched a number of years ago. A realistic action plan for the prevention of prejudice in the workplace was recently introduced. Finally, the Office organizes regional seminars, typically once a year, which bring together national officials and officials of the ILO and allow for the specific purpose of finding solutions to challenges associated with the application of international labor standards, particularly with regard to human rights [4]–[6].

The World Employment Programme and technical cooperation The ILO Constitution's article 10, the Office is required to "accord to governments upon their request all appropriate assistance within its power in connection with the framing of laws and regulations on the basis of the decisions of the conference." Since 1950, the International Labor Organization and the United Nations have significantly expanded the technical cooperation offered to the various nations. 38 It might occasionally be a way of helping governments get to the level of the standards set forth in different international labor conventions, allowing them to either ratify some of those conventions or remove the inconsistencies found in the application of conventions that have already been ratified. Thus, international labor standards serve as a guide for the technical cooperation experts in their work. They are also taken into account by the International Labour Office's services when governments request them, which they frequently do in order to help them draft or amend their labor and social security laws. In order to help countries achieve the highest level of productive employment possible, the International Labor Organization (ILO) launched the World Employment Programme in 1964 with a focus on the right to work. The World Employment Programme is based on the standards contained in the 1964 Convention and Recommendation on Employment Policy.

As part of this initiative, the ILO formed employment strategy missions that visited various nations in Africa, America, and Asia3' at the request of the relevant governments, and they provided suggestions to those governments. Although the ILO's system of supervision was largely based on particular articles of the ILO Constitution, which gave it a solid basis, those laws have not been rigorously enforced limitations on it. These have acted as the foundation for developing ideas. Thus, dynamism is the first characteristic of this system, which has been continuously evolving since it was built on a firm base. This process of transformation has taken two paths that, although being legally distinct from one another, have a shared objective. The primary goal of supervision was to make sure that States were adhering to the commitments they had taken on by ratifying the Conventions. Additionally, it sought to support the adoption of ILO standards regardless of any official requirements of this kind. In both instances, what is at stake is the operation of a global organization that, via various means, works to achieve the goals set for it. This explains another feature unique to the ILO's supervisory system, namely its variety. As can be seen, in order to achieve maximum effectiveness, this system includes a wide range of procedures designed to address various situations and needs: automatic routine supervision based on the analysis of government reports, legal cases based on the submission of complaints, conciliation procedures, objective studies of situations, etc.

These processes, although diverse, have a complimentary nature, supporting one another and often building on one another. Despite their differences, the ILO processes have a number of characteristics when seen from the perspectives of both their individual components and the laws and concepts that serve as their foundation. The ILO's system consists of four components in general. Any system of monitoring must first assume the presence of a secretariat that can aid its organs in a duty that is often challenging and laborious. The International Labour Office's secretariat is a qualified group of officials at the disposal of the ILO's organs, conducting an objective and thorough analysis of all the available documentation and assisting those organs in their work and in formulating their conclusions.41 In addition, the crucial component of supervision is the body responsible for determining whether national law and practice are compliant with international standards. It is often made up of autonomous individuals. The supervisory mechanism used by the ILO is founded on this idea. It could even be argued that it holds the key to success in the area of international supervision.42 Only such a guarantee of impartiality is able to inspire the confidence of the governments involved, the complainants, the international organization as a whole, and, more broadly, public opinion. It also grants the conclusions of those bodies the legitimacy that might lead to their acceptance.

As a result, the Director General of the ILO (and not governments) proposes and the Governing Body of the ILO appoints the members of these organizations in their individual capacities. The independence that should define such individuals mostly relates to their roles (they shouldn't hold national office positions that bind them too tightly to a state’s administration). In general, sound legal training, extensive experience in public affairs and international issues, as well as more individualized qualities of judgment and character in particular, integrity and authority likely to inspire confidence and respect are also required. After the independent body has finished its investigation, a third component the governing body and international labor conference, which include representatives of the many interests involved comes into action. The conclusions of the independent body are presented to these organs, who then examine the actions necessitated by those conclusions, look for a resolution to the issues encountered with the representatives of the governments involved, and lend the supervision process the weight of the Organization.

This phase is particularly beneficial since non-governmental groups made up of employers' and workers' organizations may engage in it on an equal basis with governments because of the ILO's "tripartite" framework. The representatives of employers' and workers' organizations, through their participation in the tripartite organs, give a particular dynamism to the ILO's system of supervision because they are able, thanks to that structure and the established procedures, to file complaints, furnish elements of information, and comment on governments' reports. The fourth component, which might be characterized as diplomacy in the broadest sense, is less obvious but sometimes crucial. It is frequently helpful to have an effort at persuasion and explanation discreetly directed at the parties involved, under the supervision of the Director-General of the ILO, in matters that are occasionally complex and delicate, alongside or in addition to official procedures and the tensions that accompany them, with the aim of facilitating the search for solutions.

Thus, the independent organs have had the consistent cooperation of a senior official throughout the procedures for investigation, conciliation, or on-the-spot studies. This senior official is responsible for serving as an intermediary between the independent organ and the parties, or the government concerned, eliminating misunderstandings, and maintaining the necessary level of cooperation without affecting the investigation, conciliation, or on-the-spot study procedures. The latest ban on "direct contacts" resulted from a similar worry. The four key components of the supervisory machinery are thus diligent work by the secretariat, objective investigation by an independent body, debate within a representative tripartite group, and "discreet diplomacy." Each of these components has a certain purpose. They complement one another without really integrating. It is important to notice certain special guidelines and principles in the operation of this apparatus. In the first place, different rules of process enable the parties involved, especially the States engaged, the chance to put forth completely their points of view in order to observe perfect impartiality.

The meticulous and exact nature of the supervisory activities, which is crucial for both the efficacy and the legitimacy of supervision, is a second aspect to be noticed. Sincere supervision cannot be achieved by a cursory investigation and imprecise findings. The supervisory bodies, with the aid of their secretariats, conduct in-depth examinations of the situations under consideration without limiting themselves solely to the data provided by governments, and their conclusions and recommendations are formulated with precision and sometimes in detail. As a result, reports and other informational components requested from governments must be established on the basis of precise forms. Thirdly, the system's continuity is a crucial component of its efficacy.

As a result, as long as there are any unresolved issues, the Committee of Experts is regularly updated on their status and returns to them at regular intervals. One last point worth mentioning is whether or not the different stages of the operations are private or public. Some of these stages such as the deliberations of quasi-judicial bodies, witness hearings, and covert diplomacy are of a secret nature to facilitate a cool, objective review, prevent exposure, and make it easier to persuade the concerned countries to take the appropriate action. On the other hand, other phases (reports and recommendations of the various supervisory bodies, discussions within the Governing Body, and the International Labour Conference) are of a public nature, and special attention is occasionally given to specific instances of government noncooperation and persistent discrepancies. At these points and in these situations, publicity serves as a form of information for the Organization and its Members, as is customary for such public interest processes, and it may even be used to exert pressure on the relevant governments when more covert approaches have failed.

However, above and beyond the various procedural rules, what has been referred to as the "unwritten wisdom" of the ILO, or a general spirit, has emerged from the work of the various supervisory bodies. This general spirit has dominant characteristics such as scrupulous exactitude in the establishment of facts, strict objectivity in the assessment of situations, firmness of the principles and obligations involved, courage, along with a sense of proportion and reality, and latitude.

Having been at the forefront of efforts to ensure the international protection of human rights, the ILO's system of supervision is not just focused on the application of the standards for which the Organization has direct accountability. It also has broader implications for the defense of all human rights. This is true, first and foremost, because the ILO system is valuable as a model for other systems for the implementation of human rights. It has frequently been discussed whether or not other international organizations could use the ILO's procedures, which have created new opportunities for global oversight and are some of the most cutting-edge and efficient in use. Eminent jurists have brought up the issue over the years, especially some of those who, as Committee of Experts members, had a closer understanding of that system of supervision, including Georges Scelle, Lord McNair, the former President of the International Court of Justice, and Earl Warren, a former Chief Justice of the United States.

The issue is still frequently brought up, whether in regards to the system as a whole or specific cases. There is no doubt, however, that the procedures of the ILO have had some influence on the system of supervision set up in other organizations, be they organizations belonging to the United Nations or not. For instance, Professor Roberto Ago has questioned whether these procedures might not be extended to Conventions adopted under the auspices of the United Nations51 or in relation to procedures for the protection of freedom of association. Even if it is often restricted and imperfect, this strategy is becoming more and more popular. Conciliation processes sometimes have a place, and occasionally employers' and workers' organizations are given a specific role. However, all of the qualities that give the ILO's system of monitoring its power are combined nowhere else. This is due, at least in part, to the fact that the system was created within the confines of the unique constitutional provisions and organizational framework of the ILO, and that they cannot be applied, in their current forms, to organizations that do not share the same laws or traditions. However, it is still true that some of the methods and ideas from the ILO might potentially have a bigger impact on the creation of other supervision systems.

The ILO system serves a larger purpose in addition to serving as a model due to the established cooperation with other supervisory systems set up by other organizations that have also adopted instruments pertaining to human rights. Avoiding inconsistencies between the actions taken by the supervisory organizations in charge of carrying out several instruments with comparable requirements is one of the goals of this cooperation. Sometimes the international treaty itself makes provision for this kind of cooperation. Accordingly, the International Covenant on Economic, Social, and Cultural Rights of 1966 stipulates in articles 16 and 18 that the specialized agencies shall receive copies of government reports pertaining to matters under their purview and that agreements may be reached to enable these agencies to submit reports pertaining, among other things, to the decisions of their competent bodies regarding the implementation of the Covenant's provisions falling within the scope.

The Human Rights Commission's recommendations are subject to the specialized agencies' views (article 20). The supervisory bodies of the ILO may play a significant role in the proper implementation of the Covenant since the vast majority of its provisions relate to issues on which the ILO has issued several detailed Conventions. The International Covenant on Civil

and Political Rights, which stipulates participation by the specialized agencies, also permits it, but in less specific terms. As is the case between the ILO and UNESCO regarding the application of parallel conventions by those organizations relating to discrimination in employment and in education, coordination is also sometimes accomplished through administrative arrangements for reciprocal representation and information exchange. Similar coordination has been established with regard to the application of the International Convention on the Elimination of all forms of Racial Discrimination of the United Nations. Finally, several documents of regional organizations, like the Council of Europe, openly call for coordination actions.

The European Social Charter, which was adopted in 1961 with technical assistance and based on ILO standards, thus allows for participation in the discussions of the Committee of Independent Experts in charge of overseeing its application by an ILO representative in a consultative capacity. The European Code of Social Security (Minimum Standards) Convention, 1952 (No. 102) outlines even tighter coordination. The Code stipulates that, in the first instance, a competent body of the ILO shall be contacted with the reports of the Contracting Parties and that, in the event of a consultation, its decisions shall be reported to the Council of Europe.

DISCUSSION

The International Labour Organization (ILO) is committed to understanding and promoting freedom of association, and the discussion on "Investigating Freedom of Association: ILO's Academic Pursuits and Research Missions" explores the complexity and significance of this commitment. This investigation focuses on the wider effects of these initiatives on policy debate, labor rights, and the worldwide progress of human rights.

Understanding Associational Freedom as a Fundamental Labor Right

Recognizing the crucial role that freedom of association plays in influencing fair labor standards, empowering workers, and promoting inclusive communities is at the heart of the ILO's academic endeavors and research missions. The ILO has conducted a wide range of in-depth research on associational freedom. They vary from in-depth academic research that explore the theoretical foundations of this right to empirical studies that look at its real-world applications in various countries and labor conditions. This variety highlights the ILO's dedication to a comprehensive understanding of the complex processes underlying freedom of association.

Particular importance is attached to the ILO's research missions. These missions include sending teams to certain countries to carry out unbiased investigations on labor conditions, trade union conditions, and the upholding of freedom of association. These trips provide complex insights into the difficulties encountered by employees and trade unions by gathering first-hand knowledge. Additionally, they provide reliable and impartial information that may support policy suggestions, lobbying campaigns, and labor changes. The ILO's dedication to researching freedom of association helps to close the gap between abstract ideas and practical implementations.

This strategy makes sure that scholarly debates on labor rights are firmly rooted in the real-world struggles that employees face when trying to exercise their rights. With this strategy, the ILO's intellectual endeavors are pertinent to and have an influence on the fight for labor justice. Contribution to the policy discourse is one of the most important outputs of the ILO's academic endeavors and research missions. At both the national and international levels, policy choices are influenced by the research results and ideas.

They provide a solid foundation for developing labor laws that promote worker rights and adhere to international norms. The research of the ILO serves as a compass directing decision-makers toward fair labor standards. The ILO's dedication to examining freedom of association is consistent with its larger commitment to promoting human rights. The ILO helps to realize larger human rights values, such as social justice, fair working conditions, and the empowerment of underprivileged populations, by encouraging the freedom of employees to organize, negotiate collectively, and voice their concerns collectively.

The ILO's academic endeavors benefit greatly from the objectivity and reliability of its research. Because of the organization's dedication to conducting unbiased investigations, the material provided in the reports may be relied upon by international organizations, labor advocates, and legislators. The effectiveness of the ILO's efforts to promote worker rights is increased by its impartiality. The academic endeavors and research missions of the ILO promote global cooperation by providing a forum for open discussion and knowledge exchange. through interacting with diverse countries, the ILO pushes governments to harmonize labor standards through promoting intercultural understanding and encouraging governments to align their labor policies with international principles [7]–[9].

CONCLUSION

The ILO's dedication to labor rights and, more generally, human rights is shown by its pursuit of understanding freedom of association via scholarly investigation, fact-finding missions, and study groups. The ILO plays a critical role in fostering equitable labor practices, advancing the principles of freedom of association across contexts, and contributing to global social progress by meticulously examining trade union situations, labor conditions, and alignment with international standards.Protection of labor rights is not possible without freedom of association, which includes employees' rights to organize into unions, participate in collective bargaining, and voice their opinions collectively.

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CHAPTER 20

AN OVERVIEW OF UNESCO'S MISSION AND HUMAN RIGHTS

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ABSTRACT:

An informative summary of UNESCO's broad objective and its involvement with human rights is provided in this article. In addition to encouraging international collaboration in education, research, and culture, UNESCO also seeks to advance justice, peace, and human rights among all countries. The overarching goal of UNESCO's many activities, which are grounded in its constitution and include education, the scientific and social sciences, culture, and communication, is to promote respect for human rights. The article explores how UNESCO's efforts work to safeguard, advance, and foster settings that are supportive of the achievement of human rights. It draws attention to the group's focus on social and economic development as the cornerstone of effective human rights enforcement. It is possible for UNESCO to address prejudice, discrimination, and cultural diversity via a variety of channels, including philosophy and social sciences, thanks to the knowledge diffusion and usage of information and communication technologies that support this purpose. The article also describes the strategies used by UNESCO to help countries align with its goals for human rights, including the creation of laws, agreements, and recommendations. This summary highlights UNESCO's contribution to creating a world where human rights are widely acknowledged and protected by emphasizing the organization's many diverse endeavors.

KEYWORDS:

Culture Peace, Global Cooperation, Human Rights, Social Progress, UNESCO Mission.

INTRODUCTION

The mission of UNESCO is to "contribute to peace and security by promoting cooperation among the nations through education, science, and culture in order to further universal respect for justice, the rule of law, and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language, or religion," as stated in the organization's constitution. Since its inception, all of the organization's programs have been conducted in accordance with this mission. The protection of human rights, which is inextricably related to the maintenance of peace, is the ultimate objective of UNESCO's activities across all of its fields of study, including education, the natural and social sciences, culture, and communication. However, everything that is not specifically directed at promoting respect for those rights in general and enforcing particular rights focuses primarily on creating the necessary material, intellectual, moral, and cultural environments for human rights to transition from being ideals to becoming actualized realities in everyone's lives. According to UNESCO, economic and social progress must be seen as a necessary prerequisite before such rights may be fully exercised.

The advancement of knowledge and its application for development will inevitably change the material circumstances of men's life. Science should make it far simpler to satisfy men's demands and, by giving governments more resources, to get beyond the obstacles in the way,

especially when it comes to the realization of economic, social, and cultural rights. A minimum of scientific knowledge is also turning into one of the basic rights of people at a time when science and technology are reshaping the globe and the living situations of its inhabitants. In order to grasp the world in which we exist, our position in it, our capabilities, and our limitations, scientific knowledge is really essential. The diffusion of civilizations and global access to the artistic or intellectual marvels that each group has created help us better understand one another and appreciate the universal legacy that unites all of the world's cultures. In such situations, cultural contacts play a significant role in fostering intercultural harmony and human connection. The modern information and communication technologies provide a particularly effective way to spread awareness of human rights and the guiding principles that the UN has developed in this area.

Such studies also make it simpler to analyze the various conceptions that men may form of their rights; they enable one to cope better with the difficulties encountered in the implementation of certain rights, where it should be noted that account must be taken of the diversity of traditions and differences in economic and social standing. The fight against discrimination and racial or religious prejudice frequently calls for studies to be carried out in the social sciences. Examining the universality of human rights from the standpoint of the multiplicity of faiths, absolutes, and traditions is the work of philosophical thought in this context. Philosophy seeks an understanding more rooted in concrete situations that, over and above confrontations of logic or dogma, makes it possible to give universal expression to human rights by actually going to the core of diversity. Thus, by virtue of virtue, philosophy sacrifices neither the concrete diversity of humankind for some abstract universality, nor the fundamental unity of the human race for the sake of the multiplicity of absolutes which have generated war throughout history.

The main method by which UNESCO attempts to achieve its goals is through the implementation of a program established by the General Conference of UNESCO, in which all of its members are represented, and which calls for the use of extremely varied methods and techniques adapted to the complex issues arising from the development of education, science, and culture. In addition to assuming direct responsibility for the execution of its operations, the Organization also develops norms and principles that are meant to guide the behavior of governments in order to further its objectives. The numerous legal instruments, declarations, conventions, and recommendations that UNESCO has adopted since it was founded in 1946 serve to define its policy with regard to the many issues that arise from this promotion and advancement of human rights.

UNESCO'S Normalizing Activities in The Field of Human Rights

The Constitution of UNESCO states that one of its duties is to recommend any international conventions and agreements that may be required to advance the organization's goals.4 The Constitution further makes a distinction between conventions and recommendations5, to which practice has added the category of declarations. Many of the twenty-seven conventions, protocols, and other agreements including the twenty-nine recommendations and five declarations concern human rights, particularly the rights to education, culture, and information outlined in Articles 26, 27, and 19 of the Universal Declaration. These conventions and recommendations were either adopted by the General Conference or special intergovernmental conferences called by UNESCO. Each Member State is required under Article IV, paragraph 4, to submit recommendations or conventions to its competent authorities with a view to their adoption and implementation within a year after the conclusion of the General Conference session at which they were approved. Additionally, every Member State is required to submit reports "at such times and in such manner as will

be established by the General Conference. Contrary to the ILO Constitution, the UNESCO Constitution does not establish a procedure for appeals and complaints regarding the non-observance of a ratified convention's provisions. As will be seen, a Conciliation and Good Offices Commission was established within the Organization through the use of a special protocol, and it was given the task of attempting to resolve disputes between States party to one of the most significant Conventions of UNESCO, that against discrimination in education. The aforementioned articles of the Constitution do not apply to the conventions and recommendations made by special Conferences that UNESCO has called; rather, they only apply to the execution of instruments that have been accepted unilaterally by the General Conference of the Organization. Despite this, the majority of these conventions and recommendations call for the implementation of special measures. This is especially true of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, which was adopted by a special diplomatic conference held at The Hague from April 21 to May 14, 1954 and called by UNESCO.

Application ofConvention for The Protection of Cultural Property in The Event of Armed Conflict

This Convention, which was adopted at The Hague on May 14, 1954, is based on the tenet that damage to cultural property belonging to any people at all means damage to the common heritage of all humankind. The Convention's goal is to give this history with worldwide protection, but in order for it to be successful, it must be set up at a period of peace. To that end, the Contracting Parties agree to take the necessary precautions (such as building shelters against bombardments, preventing fires and building collapses, etc.) to protect cultural property from the predictable effects of an armed conflict. On the other hand, they agree to respect cultural property located on their own territory as well as on the territory of other Contracting Parties by abstaining from using the property, its immediate surroundings, or the protective equipment used to protect it for purposes that could expose it to destruction or damage in the event of an armed conflict. They also agree to refrain from engaging in hostility toward such property. The contracting States further agree to prohibit, halt, and, if necessary, prosecute any theft, looting, or misappropriation of cultural property, as well as any acts of vandalism committed against it.

Additionally, they promise not to seize any transportable cultural assets that are located on another Contracting Party's soil. The Convention also includes specific rules regarding occupied areas and the occupying powers' duties with regard to cultural property located there. (a). The 1954 Convention and the Regulations for its implementation include several provisions addressing control of the Convention's execution. The use of those principles, and particularly UNESCO's involvement in the Middle East war, has significantly strengthened the functionality of the machinery for international monitoring they created. It is hardly necessary to emphasize the significance of the setup and functioning of international control machinery in assuring adherence to the laws that must be followed in times of armed conflict. Since breaking the law might bring it to the notice of and bring it before the whole world, the very existence of such equipment is likely to persuade the responsible agents of the conflicting parties to pay attention and regard to regulations.

The mechanism created by the 1954 Convention extends beyond the narrow framework of the simple control of the Convention's implementation, even if the articles pertaining to the organization of monitoring fall within the category of control. With regard to the organization of the transport of cultural property at risk from an escalation of the conflict, the granting of special protection, and other important provisions of the Convention and the Regulations, the various agents appointed as soon as an armed conflict breaks out are given powers and

responsibilities that allow them to perform more than just a supervisory function. Organization of Control In accordance with international custom, when two nations go to war or sever diplomatic ties, they assign a neutral State referred to as "a Protecting Power" the duty of defending their interests in the nation with which they are at odds. This arrangement governs the organization of the machinery for control and implementation. The Regulations provide in Article 3 that the protecting Power shall designate delegates with specific responsibility, in addition to the Commissioner General, whose duty is explained below, for supervising the implementation of the Convention, from among the members of its diplomatic staff. According to Article 1 of the Regulations, the Commissioner-General for Cultural Property is a neutral person chosen from a global list created by the Director-General of UNESCO and includes the names of the candidates put out by the various parties to the Convention. The Government of the nation to which he will be accredited and the Protecting Power acting on behalf of the opposing party jointly agree to appoint a Commissioner-General for Cultural Property to each State involved in an armed conflict as soon as it begins. Each belligerent also picks a delegate for cultural assets that are located on its soil.

It must designate a special representative for cultural property located in another area if it is occupying that territory. The Protecting Powers' Commissioners-General, Cultural Property Representatives, and Delegates are the main control agents. Their objective is broad in scope. Additionally, it has been made possible for inspectors and specialists to be hired and given particular tasks. We will now examine the workings of this apparatus as well as the capabilities and roles of the many agents. The Commissioners-General for Cultural Property are primarily in charge of making sure that the belligerents adhere to the Convention's regulations. The Commissioner-General, who is appointed to each country at war, has an essentially impartial and international mission whose purpose is to safeguard property that is a part of a cultural heritage that, as is emphasized in the Preamble to the Convention, belongs to the country at war. In contrast, the Representative for Cultural Property and the Delegations of the Protecting Powers represent the parties engaged in conflict and are appointed with the intention of defending their respective interests.

The Commissioner-General's role is comparable to that played by the International Committee of the Red Cross on a humanitarian level on a cultural level, but it is also codified in legal documents, and governments are aware of and recognise the Commissioner-General's tasks. In accordance with Article 6, Paragraph 1 of the Regulations, he handles all problems brought to him jointly with the representative of the party to which he is accredited and the delegates of the opposing Protecting Power. It is the responsibility of the latter to call attention to any Convention violations that could give the party they are obligated to protect cause for complaint. When such violations happen, they must look into the circumstances surrounding them with the consent of the party to which they are accredited and make local representations to secure their cessation. They tell the Commissioner General, who they are required to keep informed of their operations (Article 5 of the Regulations), if necessary. The Commissioner-General communicates with the parties to the dispute or their Protecting Powers in whatever way he considers necessary for the Convention's application. With the approval of the State to which he is accredited, he may either direct an inquiry or carry it out on his own. He has the authority to designate inspectors or experts and give them particular tasks.

Finally, and this is especially significant, he creates any reports on the application of the Convention that may be required and transmits them to the parties involved and their Protecting Powers (Article 8 of the Regulations). Thus, the Commissioner-General may be persuaded to mention contraventions of the Convention in his report, to detail the

representations he and the representatives of the Protecting Powers made, and to record the success or failure of those representations. The fact that the report is written by a renowned individual whose impartial character and official responsibilities derive from the Convention cannot help but have an impact on international public opinion; this frequently acts as an effective means of pressure and undoubtedly encourages the State in question to give the Commissioner-General's observations very serious consideration. (c). Application of the Convention's and Regulation's control provisions to the Israel-Arab conflict Following the events of June 1967 and the resumption of hostilities between Israel and Egypt, Jordan, Syria, and Lebanon, the Director-General of UNESCO invited the warring parties to put the 1954 Convention's and Regulation's control provisions into action. One of the main obstacles to overcome was the lack of a Protecting Power to defend the interests of each belligerent in the territory of the opposing party because Israel had never been recognized by the Arab nations and no diplomatic relations had been established with its neighbors.

As can be seen, the Protecting Powers must, therefore, exercise clear leadership not only in the selection of Commissioners-General but also at all phases of control, where they serve as significant actors. However, the Regulations that had adopted a proposal made by the Israeli delegate to the Hague Conference in 1954 to the effect that a neutral State be chosen by agreement between the parties to the conflict be entrusted with those Protecting Power functions that concern the appointment of Commissioners-General and that the Commissioners-General be invested with the powers and functions of the Protecting Power had expressly provided for such a situation. By mutual consent, the belligerents had decided on Switzerland as the neutral State responsible for choosing Commissioners-General, who subsequently appointed them at the end of September 1967. Mr. Brunner (Switzerland) was accredited to the four Arab nations, while Mr. Reinnick (Netherlands) was accredited to Israel. The latter had made the decision to choose the same individual. However, it soon became apparent to both the Director-General of UNESCO and the States involved in the conflict that the Regulations' provisions regarding the execution of the control mission were insufficient, particularly in that particular case where there was no Protecting Power with the resources, privileges, and immunity of an embassy necessary for it to execute the mission in the nation to which it had been accredited.

Additionally, it was essential that the Commissioner-General be given responsibility for the Protecting Power's duties in addition to his own, that he have a suitable position, and that he be able to freely interact with the belligerent whose interests he was expected to safeguard. As a result, it was essential that the Commissioner-General be given the privileges and immunities that would guarantee his complete independence from the government to which he would be accredited, as well as the benefit of the bare minimum in terms of material amenities, particularly in terms of facilities, personnel, and communication. There was a significant omission in this regard in the 1954 Regulations. Article 10 only stated: "The Party to which they are accredited shall pay the remuneration and expenses of the Commissioner-General for Cultural Property, inspectors, and experts." The Protecting Powers and the States whose interests they are defending must come to an agreement about the compensation and expenses of their representatives. The Commissioner-General becomes reliant on the State to which he is accredited under such a text. As a result, a solution had to be found, and some people considered revising the Convention. This approach proved to be unworkable due to the time needed for any new texts to take effect, and it was decided that the best course of action would be to give the existing laws a new interpretation based on mutual agreement amongst the different parties involved.

On the Director-General of UNESCO's initiative, Ambassador Rappart, a representative of the neutral State of Switzerland, and I, acting for UNESCO as Assistant Director-General and Legal Adviser of the Organization, held ten days of discussions with the representatives of Israel and the four Arab nations to that end. Following these conversations, in which both sides of the conflict shared the same opinions about the Commissioners-General's standing, the Executive Board of UNESCO made a number of significant actions. In order for the international organization to pay the Commissioners-General's salaries and other costs, it was agreed to establish a special fund based on donations from the parties to the dispute. As a result, one of the Regulations' shortcomings was addressed by making it clear that, as already mentioned, the State to which the Commissioner General is accredited is responsible for covering such compensation and expenses.

As a result, the independence and international nature of the Commissioner-General are now more prominently marked. Additionally, the Executive Board of UNESCO gave the Director-General of the Organization instructions to take the necessary actions so that the Commissioners-General would be able to: a) benefit from the recognized immunity granted to high officials of the United Nations system; b) utilize the services and assistance of the offices of the United Nations and UNESCO in the conflict-affected countries, particularly in relation to communication facilities.

Last but not least, the Executive Board indicated a wish to be kept updated on any upcoming changes in the Convention's implementation, particularly on the ethical and practical constraints that the Commissioners General had to work within. This choice is really significant. It surely shows, more clearly than the 1954 Regulations, the worldwide nature of the Commissioners-General's mandate, who are given the resources they need to accomplish their jobs by UNESCO and the United Nations.

Relationships between the Commissioners-General and UNESCO were subsequently normalized and strengthened, and the Organization—in particular, its Executive Board, which was now required to receive regular reports from the Commissioners-General was given a role and responsibility that the Convention had not specifically stated, but which indisputable improved the effectiveness of the machinery for policing its application. (d). Examining reports from the Commissioners-General on the implementation of the Convention by the Executive Board of UNESCO.

In May 1968, the Executive Board of UNESCO received the first reports from the two Commissioners-General. In those reports, they stated that they had been able to carry out their duties because of the resources made available to them by the UN and UNESCO representatives in the countries where they were stationed, particularly in relation to communications, as well as because of the privileges and status that had been bestowed upon them by the governments of those nations. The approach they took to their job included each Commissioner receiving complaints from the Government to which he was assigned on alleged wrongdoing by the opposing party and relaying them to his counterpart accredited to that party. The latter then conducted an inquiry and, when needed, took the required representations to guarantee that the Convention would be upheld. With the exception of two complaints about the bombings of a convent in Jerusalem and a museum and church in Suez prior to the cease-fire, the documented infractions mostly involved the occupied territories. The following are some of the complaints made by the Arab countries involved: -the removal of the famous Dead Sea manuscripts from the Rockefeller Museum, located in the Arab part of Jerusalem, and their transfer to Israeli territory; the destruction of some buildings in Jerusalem (Jordan); -the removal of some moveable objects and a staircase from the Mosque of Abraham in Hebron (Jordan); the conducting of systematic excavations in occupied

territory. Later reports from the Commissioners-General noted complaints from the Arab countries regarding both the neglect of Muslim monuments in Jerusalem and certain changes being made in the Armenian neighborhood of that city, across from the Wailing Wall, in the historic Jewish neighborhood, and in the Magrebeen Moslem neighborhood. These changes appeared to have the intention of drastically altering Jerusalem's very character, particularly through the destruction of B. On the other hand, Israel had requested the Commissioner-General it had appointed to look into the condition of several Jewish landmarks (synagogues and cemeteries located across different Arab nations). The Arab nations rejected this request on the grounds that it was not supported by any of the Convention's articles and made no mention of any hostile acts committed as a result of the armed conflict. The Executive Board and subsequently the General Conference of UNESCO each had a turn reviewing the Commissioners-General's reports before adopting two decisions in this regard in December 1968 [1]–[3].

DISCUSSION

The United Nations Educational, Scientific, and Cultural Organization (UNESCO) is a cornerstone of international initiatives to advance learning, science, culture, and international cooperation. It is fundamentally committed to defending human rights and advancing a society that cherishes justice, peace, and understanding among all people. This conversation offers a perceptive examination of the goals of UNESCO and its crucial contribution to the advancement of human rights on a worldwide scale. The goal of UNESCO, which was established in 1945, is to create a world in which advancements in education, science, and culture are used to promote permanent peace and sustainable development. Its constitution indicates an ambitious objective to promote international collaboration and understanding in order to support peace and security.

The organization's dedication to defending basic liberties and human rights without discrimination is essential to fulfilling this purpose [4]–[6]. A key component of UNESCO's approach is education. The group acknowledges that education serves as a catalyst for the advancement of other human rights in addition to being a basic right in and of itself. Education enables people to comprehend, defend, and express their rights by giving them the information, skills, and critical thinking talents they need. UNESCO's efforts include a wide range of topics, including tackling gender imbalances and providing chances for everyone to continue learning throughout their lives. Another focus of UNESCO's efforts is culture, which acts as a bridge for communication and respect across other communities. Cultural exchange promotes understanding and helps people see the inherent worth and dignity in everyone. UNESCO promotes the interdependence of civilizations while also recognizing the diversity of those cultures via its World Heritage Sites program and cultural preservation initiatives.

Although UNESCO's purpose is vast and covers many different areas, its dedication to human rights is evident in all of its programs. The protection of human rights is closely related to the advancement of justice and the rule of law, and UNESCO seeks to foster conditions that support these ideals. The group is aware that social and economic development are necessary conditions for the successful implementation of human rights. UNESCO helps to raise living standards and widen possibilities for people all over the globe through developing science, technology, and knowledge transmission. UNESCO highlights the importance of combating prejudice, discrimination, and cultural diversity in keeping with its mandate. The group recognizes that social sciences and philosophical inquiry are crucial to understanding how human rights apply to all people in all cultural circumstances. UNESCO seeks to reduce conflicts resulting from cultural differences and improve intercultural peace by encouraging discussion and understanding.

The strategies used by UNESCO to carry out its purpose are many and strategic. In addition to its initiatives, the organization develops laws, declarations, agreements, and recommendations to assist governments and other stakeholders in advancing human rights objectives. This proactive strategy promotes adherence to international norms and values, providing a peaceful environment for human rights across the world [7]–[9].

CONCLUSION

In pursuit of a society based on respect for human rights, fairness, and understanding, UNESCO's mission stands as a ray of hope and development. The promotion and defense of human rights on a worldwide scale are inextricably linked to UNESCO's commitment to education, research, culture, and international cooperation when we consider the organization's work in these areas. UNESCO acknowledges the transforming potential of education in creating societies that defend and respect human rights via its many activities. The organization's dedication to provide high-quality education to everyone, regardless of background, is evidence of its comprehension that education is not only a fundamental right but also a force for social change and empowerment.

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CHAPTER 21

ASPECTS OF THE CONVENTION AGAINST DISCRIMINATION'S IMPLEMENTATION AND OVERSIGHT

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ABSTRACT:

The Convention against Discrimination in Education, established by UNESCO, is discussed in the abstract along with the processes and techniques used to implement and oversee its implementation. The Convention seeks to eradicate all kinds of bias and to advance equal opportunity and treatment in education. The objectives of the Convention are outlined in the abstract, which include both deliberate discrimination and disparities resulting from social, economic, and historical circumstances. The duties of States parties are outlined in depth, and they include things like the elimination of discriminatory practices and the execution of national plans to attain educational equality. The adoption of a Recommendation in addition to the Convention to address issues experienced by certain Member States is highlighted in the abstract. It highlights how crucial it is for Member States to report on the steps they have taken to implement the Convention so that UNESCO may evaluate their success and obstacles. The summary highlights the need of recurrent consultations and surveys to track how the Convention is being implemented and offers details on continuing initiatives to promote equality in education.

KEYWORDS:

Discrimination, Equality, Educational equality, Equal opportunity, UNESCO.

INTRODUCTION

The methods and procedures for putting into practice and monitoring the application of the Convention against Discrimination in Education differ from those just described and more closely resemble those of the International Labour Organization. The General Conference approved the Convention and Recommendation against Discrimination in Education during its eleventh session on December 14, 1960. The Convention went into effect on May 22, 1962. These two tools are intended to promote equal opportunity and treatment in education as well as to eradicate and prevent all forms of prejudice. As a result, they assist in achieving two distinct but related goals outlined in the Organization's Constitution. The injustices that need to be fought and eliminated include not only discrimination that results from statutory or administrative practices and involves the willful denial of the right to education to some members of the community, but also inequalities that frequently result from a combination of social, geographic, economic, and historical circumstances rather than from deliberate intention, which is frequently referred to as a form of "static discrimination" in order to better disambiguate it.

Depending on whether eliminating discrimination or guaranteeing equal opportunity is at stake, the nature of the commitments made by the States parties to the Convention differs. According to Article 3, those states consent to immediately implement a number of measures, including the abolition or modification of any statutory provisions, the cessation of any administrative practices that involve discrimination, and the prohibition of any differential treatment or preference based solely on membership in a particular group.

On the other hand, in many nations, the steps to be done to guarantee equitable chances need a wide-ranging effort that goes beyond education as well as significant budgetary expenditures that must be stretched out over time. As a result, the Convention mandates that each State design and implement a national strategy that will attempt to advance educational equality by means that are suitable to the national context and use.

The General Conference's decision to adopt a Recommendation concurrently with a Convention reflects its desire to account for any challenges that certain Member States may face in ratifying the Convention for a variety of factors, most notably because of their federal organizational structure. The substance of the Recommendation and the Convention are identical, with the exception of changes in formulation and legal bearing that are inherent in the nature of these two kinds of agreements. The reports that States provide are largely what determines how the processes for monitoring the Convention's implementation are carried out. Each Member State is required to report to the Organization on the actions taken in response to the recommendations and conventions established by the General Conference under Article VIII of the UNESCO Constitution. In accordance with Article 7 of the Convention, States that are Parties also owe it to the Organization to notify it of the legal and administrative measures they have taken to implement the aforementioned Convention. The Recommendation has a similar clause. As was recalled by the General Conference at its fourteenth session (19661, "the taking cognizance by an international organization of the extent to which its Member States apply the conventions adopted by it and give effect to its recommendations constitutes an essential function". It is able to discharge this task by examining periodically the reports that Member States are obliged to submit to it for that purpose.

The object of this method is to enable the Organization to be apprised of and to evaluate both the progress achieved by the various countries in implementing an international instrument and the difficulties encountered by them. The Organization is then in a position to determine its future action more effectively. This is particularly important when, as in the case of the 1960 Convention and Recommendation, the instrument in question does not merely define rules for immediate application but also constitutes the starting point for progressive measures that States are invited to take in the future, with a view to achieving to the fullest extent the objectives and goals pursued and which the Organization is duty bound to guide. It is to be pointed out that Article 6 of the Convention and a similar provision of the Recommendation stipulate that the General Conference of UNESCO may adopt subsequent recommendations defining the measures to be taken against the different forms of discrimination in education and for the purpose of ensuring equality of opportunity and treatment. The procedure for submitting and considering reports from Member States on the application of the 1960 instruments was laid down in a decision taken by the General Conference in 1964.' Pursuant to this decision three consultations of Member States have been held: the first in 1965-66, the second in 1971-72, and the third in 1975-80." Detailed questionnaires were drawn up by the Secretariat for each of these consultations[1]–[3].

These questionnaires covered all the provisions of the 1960 Convention and Recommendation. By the importance given to certain questions, they also reflect the particular con- terns of the Organization. Moreover, considerable latitude is given to the Secretariat in determining the subjects to be dealt with in the reports and the form and periodicity of these reports. The reports received were analyzed by the Secretariat and examined by a special committee of the Executive Board of UNESCO, composed of twelve members.

The question arose however as to whether the organ called on to make a first examination of the States' reports should not, in conformity with the practice of the ILO, be completely non-governmental in character. Moreover, the committee, which considers the reports of States on the Recommendation concerning the Status of Teachers adopted in 1966 by a special Conference convened by UNESCO and drawn up with the full collaboration of the ILO, is composed of independent persons appointed in their personal capacity.

The Executive Board of UNESCO considered that, pending reconsideration of the matter in the light of the experience of the Committee on the Application of the Recommendation concerning the Status of Teachers, the system in force should be maintained. After considering the reports of States, the special committee of the Board itself establishes a report, in which it formulates its conclusions and recommendations and which is submitted in turn to the Executive Board and then to the General Conference. The special Committee generally gives in its report an overall evaluation of the situation and formulates a number of suggestions concerning the future action of the Organization. In some cases, the special Committee gives its interpretation of certain provisions of the Convention whose application has given rise to difficulties. Such in particular was the case in regard to the definition of national minorities and the significance to be given to article 5 of the Convention which refers to "the right of national minorities to carry on their own educational activities, including the maintenance of schools, and, depending on the education policy of each State, the use or the teaching of their own language".

The fact is that under special legislation derived from specific historical and political circumstances and whose purpose was to safeguard the Swedish language and culture in the Aland Islands, it was prohibited to disperse education in a language other than Swedish, except with the special consent of the commune concerned. This was something that Finland called attention to in its report. The Special Committee stated the following in its report after providing clarifications regarding the meaning to be assigned to the term "national minorities": "In the case of multilingual countries that have a federal system or a special system for certain provinces or administrative units, another problem of interpretation arises. In these nations, local governments often have responsibility for education. However, in certain areas (provinces, states, or cantons) that have some degree of educational autonomy, population groupings that are in the majority throughout the nation may be in the minority.

According to the Special Committee, these groups should be treated as national minorities under Section V (c) of the aforementioned Recommendation or Article 5 (c) of the Convention, and should therefore be entitled to their provisions. It should be noted that Finland later submitted its ratification documents for the Convention. A reference to disputes between States over the interpretation or implementation of the 1960 Convention's provisions may also be found there. According to Article 8, these issues may be brought to the International Court of Justice. The International Court of Justice may be referred for each dispute; nevertheless, the Court's jurisdiction is discretionary. However, the Court's jurisdiction is discretionary, and each case requires the consent of the relevant States. The communist States of East Europe, whose historic posture in this respect is well-known, opposed the suggestion that the Court's jurisdiction be recognized as mandatory, which was first put before the General Conference. The Arab States and other Latin American States joined them. However, as a compromise, the General Conference enacted a Protocol in 1962 creating a Conciliation and Good Offices Commission to be in charge of attempting to resolve any disputes that could arise between States Parties to the Convention. The States parties to this Protocol are required to acknowledge the Commission's authority.

States have already ratified the Protocol, which went into effect in October 1968. UNESCO drew inspiration from a number of precedents when drafting it, most notably the International Covenant on Civil and Political Rights' Human Rights Committee, the Fact-Finding and Conciliation Commission on Freedom of Association, and the European Commission of Human Rights, all of which were established by international treaties. Permanent status applies to the Commission created by the UNESCO Protocol. It is made up of eleven members who were nominated by the States Parties and then chosen by the General Conference to serve in their individual capacities. Two of the eleven seats were to be allocated to candidates proposed by non-governmental organizations in consultative relationships with UNESCO and recognized by its Executive Board as representing, on the one hand, the teaching profession and, on the other, the interests of pupils and students at the various levels of education. This proposal was included in the draft Protocol created by the Director-General. This suggestion was not accepted. The Commission may include more than one national of a single State, but all members must be citizens of States Parties to the Protocol. While keeping in mind the requirements for an equitable geographical distribution and the representation of the various forms of civilization and the major legal systems, the General Conference must strive to include individuals with legal experience and individuals with educational qualifications in its membership.

When the Commission is missing a member, whose nationality is that of one of the States parties to the dispute, additional members, in addition to the existing eleven, may be constituted. The Director-General of UNESCO is responsible for the Secretariat. Initially, only States parties to the Protocol were eligible to file a complaint with the Commission. If one of those States believes another is not adhering to the Convention's terms, it has the right to alert the other state by written contact. The responding State has three months to respond to the notification. Both States have the right to bring the case to the Commission if, six months after receiving the original notification, nothing has been resolved to their satisfaction. However, the Protocol provided that, if agreed upon by the parties, the Commission may be directed to attempt to resolve any dispute between States that are parties to the Convention but are not parties to the Protocol six months after the Protocol's entrance into force, or since October 1974 in actuality.

Despite this potential expansion of the Commission's authority, it is important to remember that it is still only able to resolve disputes between States and that private individuals have no direct recourse. The Commission has the right to ask the States involved in every case it receives for all the information that is relevant. However, it must only hear and decide a matter after exhausting all available domestic remedies in the meaning that international law gives that word. In such cases, the report will be limited to a brief statement of the facts and the resolution reached. The Commission's role, once it has obtained the information it deems necessary, consists primarily in establishing the facts and putting its good offices at the disposal of the States concerned in order to reach a friendly settlement of the matter "on the basis of respect for the Convention." If, however, no agreement has been achieved, the report also includes a summary of the pertinent facts and a list of the suggestions that have been developed. Individual viewpoints are acceptable.

The International Court of Justice may be asked to provide an advisory opinion about any legal question pertaining to a matter that has been brought before the Commission, and the Commission may also propose that the Executive Board or the General Conference of UNESCO do so, depending on the circumstances. Additionally, it is explicitly stated that the creation of the Commission does not affect a State's ability to use alternative dispute resolution processes, including agreeing to jointly submit its problems to The Hague's

Permanent Court of Arbitration. Even though the Commission has been in existence since 1971 and has had several meetings, including those to approve and define its rules of procedure, no appeal has been made to it so far. In addition to the research previously stated, UNESCO has also contributed normative action to the fight against racism, racial discrimination, and apartheid. The latter includes the Declaration on Race and Racial Prejudice and Resolution for its Implementation*. The creation of scientific declarations was one of UNESCO's most notable first efforts to combat racism. The "Statement on Race" was the first of these, and it was followed by the "Statement on the Nature of Race and Race Differences" in 1951. These two professional pronouncements, which emphasize the biological and anthropological components of race based on the most recent discoveries in science at the time, categorically reject notions of racial supremacy.

When experts were brought together by UNESCO in 1964 to draft the "Proposal on the biological aspects of race," the biological aspects once again took center stage.14 In September 1967, 18 experts were brought together by UNESCO to draft the "Statement on Race and Racial Prejudice," the fourth document on the topic, which included a much wider range of social scientists. This statement focuses on the issue's political, economic, social, and cultural components. Although the four papers were signed by distinguished experts, the Member States of UNESCO could not in any way be claimed to be bound by them. The General Conference of UNESCO invited the Director-General to prepare a draft Declaration on Race and Racial Prejudice on the basis of the 1967 statement at its seventeenth session (1972), which was intended to strengthen the validity of the claims made, particularly those in the 1967 statement. This declaration was later adopted at the General Conference's twentieth session in 1978. There are many unique elements in the Declaration that need special attention [4]–[6].

Apartheid is described in the Declaration as "one of the most serious violations" of the principle of equality in dignity and rights, as well as a "crime against humanity gravely disturbs international peace and security". The International Convention on the Suppression and Punishment of the Crime of Apartheid had already given the crime the same criminal status as genocide. The Declaration also has its own resolution for implementation, which is an extra feature. This resolution instructs Member States to "communicate to the Director-General all necessary information regarding the steps they have taken to give effect to the principles set forth in the Declaration."

The Resolution requests the Director-General "to prepare a comprehensive report on the world situation in the fields covered by the Declaration, based on the information supplied by Member States and of any other information supported by trustworthy evidence which he may have gathered by such methods as he may think fit, and to enlist for this purpose, if he deems it appropriate, the assistance of one or more independent experts of recognized competence in these fie The Declaration and Resolution provide innovative contributions to the international protection of human rights simply by existing as such provisions and by the potential they represent for pressing States to abide by the Declaration.

DISCUSSION

Every society in the world strives for educational equality, which aims to guarantee that everyone, regardless of background, has fair and equitable access to high-quality education. A key factor in promoting this equality is the UNESCO-adopted Convention against Discrimination in Education. This debate examines the Convention's implementation and oversight procedures, underlining their importance and effects. The Convention against prejudice in Education is being implemented, and it provides a comprehensive framework for

addressing prejudice in educational institutions. Its execution requires a diverse strategy that focuses on structural injustices and discriminatory acts. The Convention requires that member states take prompt action to end discrimination in education by repealing or amending legislative provisions, ending discriminatory administrative practices, and outlawing unequal treatment based on membership in a group. The Convention acknowledges, however, that attaining equality in education goes beyond the prompt elimination of discriminatory practices. It demands that member states create and carry out national plans to address inequities in educational opportunities and access while taking into consideration the various national situations.

The efficacy of the Convention in promoting educational equality depends on effective monitoring procedures. Evaluation of member states' progress in carrying out the Convention's provisions relies heavily on periodic consultations and reporting systems. UNESCO can keep track of the action's member states take to end discriminatory practices, advance equality of opportunity, and improve access to high-quality education thanks to the monitoring process. The international community is given the capacity to hold member nations responsible for their pledges to educational equality thanks to this accountability mechanism.

The Convention's implementation and oversight have had a real influence on educational systems all around the globe. To end discriminatory practices and provide equal access to education, member states have made significant progress in adopting legislative and administrative changes. The focus placed by the Convention on creating equal opportunity is consistent with the larger global objective of advancing social inclusion and sustainable development. The Convention has inspired discussions and initiatives that address long-standing disparities by establishing an international standard for education. However, problems still exist. Because member nations' socioeconomic, cultural, and political settings differ so much, implementation is still difficult. Addressing ingrained disparities, a lack of funding, and past injustices is necessary for achieving educational equality. The ability to objectively measure progress may sometimes be hampered by member states' weak reporting or lack of openness. The Convention's reach goes beyond simple legislative reforms, necessitating a change in society attitudes and values in order to effectively eradicate prejudice[7]–[9].

CONCLUSION

The UNESCO Declaration on Race and Racial Prejudice declares the tight to be different for the first time in a global document, which immediately qualifies to exclude the abuse of this right to legitimize discriminatory behaviors. The Declaration defines "racism" and its effects before stating that it "violates the fundamental principles of international law and, as a result, seriously disturbs international peace and security." It also states that "any form of racial discrimination practiced by a State constitutes a violation of international law," for which the State is responsible to other States in accordance with the principles of international responsibility.

The Convention against Discrimination in Education, in conclusion, symbolizes the international commitment to promoting equality in education. Its methods for implementation and oversight are crucial weapons in the fight for educational fairness, helping to advance the more general goals of human rights, social inclusion, and sustainable development. While obstacles still exist, member states and international organizations must keep up their efforts if the Convention's goal of a world where everyone has equal access to education is to be realized.

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CHAPTER 22

AN OVERVIEW OF HUMAN RIGHTS: ENSURING PROTECTION AND ACCOUNTABILITY

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ABSTRACT:

Humanitarian principles and international humanitarian law intersect to ensure that people are protected in armed conflicts while holding those accountable for violations, according to the abstract of "Humanitarian Principles and International Humanitarian Law: Ensuring Protection and Accountability". In-depth discussion of the connection between humanitarian principles and the law governing armed conflicts is provided in this essay, which also emphasizes the vast range of humanitarian principles that include both behavior during operations and the care of war victims. International humanitarian law recognizes the Geneva and Hague Conventions as crucial elements, highlighting their intention to limit military requirements and protect human rights. The Additional Protocols to the Geneva Conventions show how these standards have been incorporated. The research focuses on the mechanisms put in place by the four Geneva Conventions to stop and remedy violations of human rights, highlighting the functions of Protecting Powers, stand-in organizations, and the International Committee of the Red Cross (ICRC). The paper's main themes exploring the relationship between humanitarian values, international humanitarian law, and the systems in place to provide protection and accountability during times of conflict are encapsulated in the study.

KEYWORDS:

Conflict Situations, Humanitarian Principles, Non-Combatants, Protection Civilians, War Crimes.

INTRODUCTION

The humanitarian perspective has a major influence on the law of armed conflicts. As a result, it can be said that humanitarian rules include not only those governing the conduct of operations methods and means of combat but also those concerning the victims of conflicts. Its main goal is to attempt to contain military necessities namely, the search for effectiveness in operations undertaken against the opposing party within the narrowest possible limits. As a result, the Geneva law, which has sometimes been the only one included in the category of humanitarian law, together with the Hague law, as it is often known, should be broadly regarded as part of international humanitarian law. Furthermore, it should be noted that while the Hague and Geneva Conventions have long had clear areas of overlap, there has been a recent trend towards a more thorough integration of these two groups of complementary norms. This is especially evident in the two Additional Protocols to the Geneva Conventions, Protocol I relating to the protection of victims of international armed conflicts and Protocol II relating to the protection of civilians in conflict zones. On December 7, 1978, the Protocols came into effect.

While the definition of international humanitarian law should not be limited solely to the rules of the humanitarian Conventions, it is to be noted that the Geneva Conventions of 1949," in contrast to the Conventions concerning the conduct of hostilities, establish international machinery for the purpose of preventing and combating human rights abuses in

international conflicts. "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances." While this machinery, established by the general provisions of the four Conventions of 1949, is at the center of the present study, the issue of the institution of criminal proceedings against those who violate the Conventions is not taken into consideration. Articles 10 of the first three Conventions, as well as Articles 9, 10, and 11 of the fourth, are the passages that need special attention. They create what may be termed as a multi-tiered structure. As stated in article 9, the Conventions must first be implemented "with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the Conflict." Second, according to the first sentence of Article 11, the High Contracting Parties "may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention".

The "organization acting in place of a Protecting Power" that has been proposed on several times, but for which there has yet to be a concrete example in reality, is what is being discussed here. Last but not least, the Conventions call for the establishment of a "substitute" in the event that the actions of a Protecting Power or an organization like the one mentioned above do not benefit or cease to benefit the individuals covered by the Conventions: in such a case, the Detaining Power must ask a neutral State or such an organization to carry out the obligations placed on the Protecting Powers by the Conventions. The Detaining Power shall request or shall accept the offer of services from a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions carried out by Protecting Powers under the Conventions if protection cannot be arranged in accordance with this clause. The provisions of the Conventions do not interfere with the humanitarian activities that the ICRC may carry out for the protection and relief of the Conventions' beneficiaries, according to, which should be emphasized. In other words, it shouldn't be forgotten that the ICRC occupies a special or parallel position due to its distinctive purpose, which is specifically stated by the texts, even though it is the last substitution and so appears at the bottom of the list in the system just outlined. the application of the humanitarian Conventions, the responsibility of the Protecting Powers, including the organization serving as their replacement, and finally the roles and conditions of the ICRC's engagement [1]–[3].

The Protecting Powers and Their Substitute

The Protecting Power institution was not developed as a result of the humanitarian Conventions. The 1949 Conventions take as their foundation an institution long enshrined in international law when they refer to the "Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict" and follow the precedent set by Article 86 of the Geneva Convention of 1929. Thus, a custom had developed whereby a State, in the event that it severed diplomatic ties with another State, and, more specifically, engaged in war with that State, would delegate to a third State responsibility for protecting its interests and those of its nationals in the State of residence.

It is important to briefly review the main characteristics of the institution of the Protecting Power: Appointment of a Protecting Power presupposes a three-sided agreement. This customary practice, to which the belligerents of the last two world wars had great recourse, was codified in treaty form in article 45 of the Vienna Convention of 1961 on diplomatic relations. In other words, the Protecting Power must accept the mandate and be acknowledged as such by both the Protecting Power's State of domicile and the State of origin. The mandatory of the State of origin is the Protecting Power. It represents the latter as a delegate; hence it is limited to the powers that its mandator has in relation to the State of residency.

However, the Protecting Power has some latitude in carrying out its duty, particularly with respect to how it intends to carry out the directives it gets from the State of origin. It is more than just a conduit for transmission. Last but not least, there is nothing to stop two States from mutually assigning the Protecting Power duties to the same State.

The Helvetic Confederation, during the time of the Indo-Pakistani war in 1971, exercised such a dual mandate. In addition, the Protecting Power's performance of what may be considered routine functions as opposed to those emanating from the Geneva Conventions can vary greatly. The Protecting Power may carry out more specifically political activities, such as requests for clarification, protests, etc., or representations on behalf of the nationals of the State of origin, in addition to performing various administrative tasks. While it is not appropriate to go into great detail about the regular duties of the Protecting Powers commonly referred to as the "Vienna mandate" here, it is still important to note that this mandate may be quite burdensome for the State that assumes it, particularly if it is a small State. It could also sometimes be problematic to carry out, especially because the Protecting Power is equally concerned with safeguarding its own interests and those of its citizens, as we shouldn't forget. The Protecting Powers within the framework of the Geneva Conventions It is understandable that, in 1949, the High Contracting Parties decided to use the Protecting Powers, an institution already firmly established by international practice, in order to facilitate the effective application of the Geneva Conventions, taking into account the positive experience resulting from Article 86 of the 1929 Convention, while at the same time not excluding the development.

Because they do not establish a new institution but rather relate to a customary practice between parties to an armed conflict, it is to be anticipated that the Conventions would ignore the designation of Protecting Powers. Therefore, the rules arising from international practice still apply here, especially the need of the three-sided agreement. The Geneva Conventions' arrangement is in effect when a belligerent has agreed to entrust the defense of its interests with the enemy State to a third State, and the latter has acknowledged the Protecting Power in that role. The following points need to be stated in this context. A Protecting Power has been identified and approved; it is immediately entrusted with the duties allocated to it by the Conventions in addition to its ordinary responsibilities. This does not imply that the "Vienna mandate" and the "Geneva mandate" cannot be distinguished from one another. Even if such a scenario is still mostly speculative, it is possible that a party to the war may choose to assign responsibility for upholding the Geneva Conventions to one Power while leaving another in charge of protecting its political and diplomatic interests.

As long as the other side agreed, this would be feasible. Additionally, it's critical to remember the provisions. first paragraph, which state clearly that the parties may choose a specific organization to carry out the Protecting Powers' obligations. To put it another way, it is quite feasible for the Geneva mandate to be covered by a separate agreement designed to commit it to a State or to an organization other than the neutral State responsible for defending the interests of the originating Power. It is automatically assigned, ipso jure, the obligations emanating from the Geneva Conventions if such an agreement is not achieved and a Protecting Power exists and is recognized as such by the State of domicile. Unquestionably, this is the only reading permitted by the articles and the one that the Contracting Parties wish when they decide to use an institution that is recognized by general international law. Should it be inferred from the text's urgent nature that the belligerent States have a duty to nominate a Protecting Power? The Geneva mandate was added to the usual diplomatic mandate for another reason, which seems to be that the fundamental assumption was that the parties to the conflict would naturally be persuaded to act in their own interests.

However, it should be noted that the designation of an obligatory Power is optional, leaving open the question of whether or not one must name a Protecting Power in order to carry out the humanitarian Conventions. As was previously said, the State of origin, which serves as the mandator of the former, grants the Protecting Power its authority. Regarding the applicability of the 1949 Conventions, is this really the case? In other words, while its authority to act as a Protecting Power is undeniably founded upon the specific mandate entrusted to it by a specific State, its responsibilities under the Geneva Conventions are assigned to it by all of the Contracting Parties. Regarding the broad idea of the oversight and authority that the Protecting Powers may claim to be able to exercise, this is unquestionably significant [4]–[6].

Protecting Power

The Protecting Power functions by way of its delegates or representatives. Of course, they are principally its diplomatic and consular personnel, chosen in conformity with accepted guidelines and custom. However, the situation may get easier if the Protecting Power does not have access to enough employees. Therefore, the Geneva Conventions allow the Protecting Power to use delegates chosen from among its own citizens or those of other neutral Powers, as allowed for by the Geneva Conventions. However, it is noted that such individuals must have the permission of the Power with whom they are to coordinate their tasks.

The Mission Entrusted the Protecting Power

As it has been noted, common article 8 states that the present Convention must be implemented with the cooperation and oversight of the Protecting Powers. ". How should this mission be viewed? First of all, it should be emphasized that each of the 1949 Conventions includes particular provisions defining the conditions and modalities of the intervention by the Protecting Powers in addition to this general provision. However, the number of these particular rules varies significantly from Convention to Convention. Therefore, the Protecting Powers are only addressed in two articles in the first Convention and one in the second, apart from the reference to them in the fundamental provisions shared by the four Conventions, whereas several particular functions are delegated to them in the third and fourth Conventions. This is undoubtedly due to the diverse objectives of these books. Clearly, the protection of prisoners of war or the civilian population is a job and responsibility that may be given to the Protecting Powers more readily than the protection of those who are ill, injured, or shipwrecked inside the conflict zone.

The reality is that the question of whether the Protecting Powers' duty is tightly constrained by the provisions related to them or if it should be interpreted in light as being noticeably more expansive emerged right once. The Protecting Powers' responsibilities must be acknowledged as including everything related to the implementation and observance of the rules and obligations resulting from the four Conventions, subject to the two restrictions specified in the texts themselves, and supported by both persuasive arguments based on principle and the texts.

The first, which is shared by the four Conventions, at least in its first portion, just serves as a reminder of the fundamental principles of international law. It is a consequence, which states that "The representatives or delegates of the Protecting Powers shall not in any circumstances exceed their mission under the present Convention." They must, in particular, take into consideration the State's pressing security needs while they perform their tasks. It goes without saying that the Protecting Powers' agents cannot go beyond their mandate or engage in behavior that endangers their home state.

Additionally, that State has the right to request the recall of any representatives or delegates who are not performing their duties solely to ensure the execution of the Conventions. This clause, however, shouldn't be used as justification for overly limiting the Protecting Powers' operations. Only the first two Conventions include the second constraint. "Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities," the clause reads. However, it should be emphasized that the other two Conventions also have similar limitations about visits to detention camps and other locations, which thankfully limits their application. It is important to underline the risk that such a clause poses since, although being expressly designed to prevent careless usage, it might readily be used as a pretext to unreasonably impede the Protecting Powers' actions. It is still important to specify the Protecting Power's mission in greater detail. As we have seen, the paragraph that states that each Convention "shall be applied with the cooperation and under the scrutiny of the Protecting Powers" is the key passage.

What does this really mean? It should not be overlooked that the parties to the dispute have main responsibility for putting the Conventions into effect. As a consequence, the scope and significance of "cooperation" activities are fewer than those connected to "scrutiny" since the majority of the obligations emanating from the Conventions are claimed to be their duty. Under this heading, relief activities the sending of foodstuffs and medicines, etc. on behalf of protected persons are also included. These activities are intended to help ensure that certain obligations relating to the treatment of people are respected. Regarding "scrutiny" activities, which were the subject of much discussion at the Diplomatic Conference of 1949, it should be understood that these correspond to the Protecting Power's right and obligation to ensure that the parties to the conflict uphold the obligations placed on them by the Conventions. Although the third and fourth Conventions' many particular provisions provide examples of these supervisory actions, it has previously been noted that they do not give a comprehensive list of all conceivable types of monitoring.

The issues are more challenging in the first two Conventions because the Protecting Power is required to be present on the battlefield, with the battling forces, or aboard ships. This is a demanding and challenging endeavor. What is known is that the State of residence is required to acknowledge the Protecting Power's authority to conduct checks everywhere there are people protected by the Conventions, including on the battlefield and in occupied areas, in addition to in internment camps and other locations. What outcomes may these supervisory actions have? They most likely act as a motivator for the conflicting parties to uphold the Conventions. The Investigating Power may disclose the findings of its inquiries in reports to the State of Origin and may inform the State of Residence of the former's objections.

However, due to the margin of discretion granted to it and the fact that it is a general mandatory, it may choose not to transmit all of its reports to the State of origin if it believes that discreet action would better serve the interests of the persons protected than actions that would likely cause tension. Can it speak out before the government of the state of residence on its own behalf to protest Convention breaches and demand an end to them? This may be asserted categorically since all Parties to the Conventions have entrusted and placed upon the Protecting Power duty for inspection. Any monitoring action devoid of the authority and responsibility to alert a party to a dispute to its breaches would be pointless.

However, it is crucial to emphasize that in carrying out its oversight functions, the Protecting Power should serve more as a source of effective assistance for those who are protected rather than as a censor that is not its responsibility. Despite certain procedural rather than substantive flaws, of 1949 was largely regarded as a significant advancement due to the

Protecting Powers structure and the realities of armed wars. There was cause for celebration since real inspection equipment was established in a very sensitive sector. The Second World War experience had shown that the conditions of prisoners who had benefitted from the system of the 1929 Convention had been incomparably better than those of captives to whom that system had not been implemented. As a result, such jubilation was all the more appropriate.

It must be acknowledged, nevertheless, that the Protecting Powers system has fallen short of expectations. Although Protecting Powers were present in the Suez crisis and the Goa dispute, the Geneva Conventions' desired method of implementation had not often been used until lately. The following reasons were put forth by various parties to explain why this was the case: -many conflicts were non-international armed conflicts and did not require the application of the system of Protecting Powers; -because the institution of the Protecting Power serves to fill the void left after diplomatic relations have been severed, no Protecting Power was appointed in certain conflicts in which the belligerents were at war with each other. These discoveries prompted a number of recommendations, the goal of which was to enhance the 1949 Conventions' structure. These will be addressed in the following. However, it should be noted that the Protecting Power system was used during the Indo-Pakistani war in December 1971, which was connected to the events that caused eastern Pakistan to secede and create the Independent State of Bangladesh.

The Swiss Confederation had the opportunity to use its good offices during the turbulent time between Bangladesh's declaration of independence and the start of hostilities between India and Pakistan. Due to the fact that several Pakistani officials in Calcutta had sworn allegiance to Bangladesh, the operation to repatriate the members of two diplomatic missions that had been closed in Dacca and Calcutta was made all the more difficult thanks to this country's cooperation. As soon as diplomatic ties were severed, Switzerland was given a dual mission to protect Indian and Pakistani interests in both countries. This was a circumstance that had happened before during the Second World War. Thus, Switzerland provided helpful diplomatic services including the exchange of ambassadors, the creation of several papers, and a good offices mission that encouraged the return of direct communication between the two opposed sides.

The issue of how the Geneva Conventions should be implemented persisted, and it was made more difficult by the development of a legal dispute. Switzerland argued that by being selected as the obligatory State, it was also given the responsibilities and powers of the Protecting Power as defined by the 1949 Conventions. It specifically thought that its operatives should have access to prisoner camps. According to the Swiss Government, unless the parties to the dispute had decided to entrust the Geneva mandate to a replacement body or to another neutral State, as had not happened in this instance, the "Vienna mandate" implied imposture the "Geneva mandate".

Even though Pakistan did not complain since it only detained a limited number of inmates, the Indian Government disagreed with this viewpoint. It claimed that the Vienna and Geneva mandates were separate from one another and that only the former had been granted to Switzerland. Additionally, it said that Bangladesh was not included in the mandate Pakistan had given to Switzerland about the Pakistani prisoners of war seized on the eastern front who had surrendered to the combined command of the Indo-Bengali army. In light of this, one could argue that the debate over the Geneva mandate should not be separated from its specific political context, in which India's position on the issue of Bangladesh's recognition by other States, particularly Pakistan, played a crucial role. Pakistan was able to visit the Pakistani prisoners taken on the western front.

The reality is that Switzerland's greatest contribution was the use of its good offices while retaining its legal position and continuing to have cordial ties with the Indian Government. It was then able to carry out beneficial humanitarian activity. Switzerland was asked by the three States involved in a later agreement between India and Pakistan about the repatriation of different categories of people in 1973 to help with its implementation. It acknowledged that duty and helped in the gradual repatriation of the many persons mentioned in the agreement by working with the ICRC and the Office of the United Nations High Commissioner for Refugees. What can be learned from this situation? The dispute surrounding the "Geneva mandate," which seems to automatically supplement the "Vienna mandate" based on the 1949 Geneva Conventions and in the absence of any agreement about a replacement organization, is troubling. It at the very least highlights the challenges that still need to be overcome for a system of supervision that calls for the involvement of another State, especially when it is required by the adversary.

The ICRC does not suffer from this disadvantage, despite the fact that its duties are in any case more constrained. However, it should be remembered that in the instance of the Indo-Pakistani war of 1971, the issue surrounding the Geneva mandate may not have been as serious if it weren't for the issue surrounding the recognition of Bangladesh. It may be inferred that the core premise was not necessarily being questioned since the Protecting Power's authority could be used in regards to prisoners from the western front. However, caution must be used to avoid drawing quick judgments in this case. The Bangladesh instance seems to support the preceding evidence that the Protecting Power institution is severely limited and that it is dependent on the system of conventional diplomatic relations.

The designation of a Protecting Power or the proper execution of its mission are hampered whenever, in one way or another, a recognition issue is in dispute between the parties to a conflict. When it came to the Bangladesh issue, Switzerland found itself in an awkward position since Pakistan and India, both wanted it to refuse to recognize Bangladesh. As a sovereign State, it was constrained in certain ways in its ability to make decisions since it had a duty to ensure that the execution of its mission was not jeopardized as much as feasible. Additionally, it goes without saying, the recognition issue was made much the more difficult by Pakistan's decision not to include the required State in its interactions with the breakaway group. It is crucial to emphasize that although the 1971 war exposed certain flaws in the Protecting Powers system, it also highlighted some of its advantages. The Protecting Power was selected and ready to start working quickly, which highlights the system's essential strength that it is based on an established diplomatic network. The Protecting Power's representatives are present, are acquainted with the nation, have connections with the government, and have a position that makes their job easier. No other organization can provide these benefits to the same degree. Without a doubt, since the Protecting Power is a State and a Mandatory State, there are situations when humanitarian groups have options that are not available to the Protecting Power. This highlights the complimentary nature of the two institutions, and it should be added that the Protecting Power's diplomatic efforts sometimes seem to be such that they make it easier for humanitarian groups "on the ground" to carry out their work [7]–[9].

DISCUSSION

In order to guarantee the protection of people during armed conflict and hold those accountable for breaches, the convergence of humanitarian principles and international humanitarian law (IHL) is crucial. This debate dives into the core ideas of how these laws and moral precepts interact to protect the rights of both civilians and soldiers during times of armed conflict while ensuring responsibility for transgressions.

Humanitarian Principles

The fundamental tenets of humanitarian activity are humanitarian principles, which include humanism, neutrality, impartiality, and independence. They direct the actions taken by organizations and people engaged in helping those impacted by armed conflict. The value of defending human life, dignity, and wellbeing is emphasized by the concept of humanity, particularly during times of emergency. Building confidence with all parties concerned depends on humanitarian actors maintaining their impartiality and refraining from taking sides. The principles of impartiality and independence stress the independence of humanitarian organizations from political, economic, and military forces, respectively. Impartiality calls for help to be given only on the basis of need, without prejudice or bias. IHL is a body of regulations and precepts that aim to reduce the impact of armed conflict on both combatants and civilians. The Geneva Conventions and associated Protocols, which provide safeguards for ill and injured troops, prisoners of war, civilians, and cultural property, are the foundation of international humanitarian law (IHL). IHL imposes restrictions on the ways and means of war in an effort to find a balance between military necessity and humanitarian concerns. The application of IHL is based on humanitarian values. IHL acts as a legal framework that specifies the rights and safeguards of those who are not participating in hostilities when armed conflicts take place. Protected against malicious injury and indiscriminate assaults are civilians, medical staff, and injured fighters. Humanitarian actors are guided by the values of humanism, neutrality, impartiality, and independence as they provide aid, care, and relief to people in need without prejudice. In accordance with these guiding principles and the IHL norms, humanitarian organizations strive to reduce suffering and advance the wellbeing of impacted communities. Accountability for violations is a key component of both humanitarian standards and IHL. Armed conflict participants and combatants are responsible for upholding IHL standards and abstaining from using forbidden weapons, targeting civilians, or committing war crimes. Individuals who commit major breaches are held accountable for their acts by use of procedures such as international tribunals and courts. These procedures highlight the value of following IHL and humanitarian standards and act as a deterrence to criminality.

CONCLUSION

Despite the existence of humanitarian principles and IHL, wars often see breaches as a result of armed groups acting outside of accepted standards, a lack of understanding, and a contempt for international legal structures. In order to overcome these obstacles, international collaboration, lobbying, and initiatives to increase understanding of the value of upholding IHL and humanitarian principles among combatants, governments, and the general public are required.In summary, the symbiotic link between humanitarian principles and international humanitarian law is essential for protecting the safety of those impacted by armed conflict and holding those responsible for breaking rules accountable. Maintaining these values and regulations helps to maintain a fairer and more compassionate world, even during times of crisis, while also reducing the suffering caused by wars.

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CHAPTER 23

AN OVERVIEW OF REGIONAL PROGRAMS TO PROMOTE HUMAN RIGHTS

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ABSTRACT:

As a support system to global efforts, the idea of regional human rights initiatives has gained popularity. The purpose of these projects, which have evolved on several continents, is to successfully protect and advance human rights on a local level. These programs are motivated by a humanitarian approach that attempts to minimize the effect of military requirements and prioritize conflict settlement, even if the United Nations Charter does not officially support them. The Council of Europe, the European Communities, and the Conference on Security and Co-operation in Europe (CSCE) are three examples of regional human rights protection on the European continent. Each dimension has unique institutional frameworks that support the defense of basic rights, such as the Court of Justice and the Rome Convention. The Organization of American States and current moves in Africa serve as examples of comparable regional endeavors outside of Europe. These projects, while their potential advantages, also have issues with efficacy, adherence to universal standards, cultural variety, and enforcement methods. A key problem continues to be striking the right balance between meeting unique regional demands and protecting universal values. The importance of regional efforts in promoting human rights and their linkages with global institutions will continue to affect the language and practice of human rights protection as the globe navigates complicated geopolitical processes.

KEYWORDS:

Conflict Resolution, Cultural Diversity, Global Mechanisms, Geopolitical Dynamics, Human Rights, Regional Initiatives.

INTRODUCTION

Regional initiatives, which have become crucial frameworks for guaranteeing the preservation and progress of human rights globally, have significantly changed the landscape of human rights promotion. These initiatives have taken form on many continents, each with its own distinct institutional traits, and are grounded on the idea that collaborative regional efforts may successfully supplement global human rights processes. The United Nations Charter neither expressly encourages nor prevents the development of such regional accords, allowing regional organizations to play a significant role in resolving regional crises and disagreements. These programs' primary tenet is in line with the humanitarian viewpoint; it emphasizes conflict settlement while attempting to minimize the need for military needs.

The Conference on Security and Co-operation in Europe (CSCE), the Council of Europe, and the community have developed as three unique aspects of regional human rights protection, and the European continent has been at the forefront of this trend. The safeguarding of basic rights is recognized as an essential component of general legal principles within the European Communities, which are under the Court of Justice's supervision. The CSCE has institutionalized human rights goals by emphasizing on freedom of movement, ideas, and information across Europe via projects like the Belgrade and Madrid conferences. The most

developed part of the Council of Europe is the "Roman" component, which is based on the Rome Convention and the Turin European Social Charter. The Inter-American Commission on Human Rights, which is sponsored by the American Convention on Human Rights, was founded by the Organization of American States outside of Europe. Although the Organization of African Unity previously gave less importance to human rights on the African continent, new initiatives to establish a regional commission for the promotion of human rights have been made.

These regional projects do have certain difficulties, however. Given the possibility for fragmentation or deviance from universal norms, regional procedures often face concerns regarding their efficacy and compatibility with international human rights standards. Maintaining a cogent framework for the protection of human rights while balancing the unique requirements and cultural diversity of member nations is still a difficult undertaking. Furthermore, since member nations' political will and competence differ, providing accountability and enforcement measures within regional projects may be challenging [1]–[3].

The United Nations and Regional Institutions for Human Rights

Nothing in the United Nations Charter that forbids the existence of such agreements of which is devoted to "Regional Arrangements" actually encourages them, especially insofar as they are likely to contribute to the peaceful resolution of "local" disputes. What is once again made clear is that the framers of the San Francisco Charter had a negative, as opposed to a positive, definition of peace: they saw peace as a time without disputes, especially violent ones. Furthermore, the Charter explicitly imposes on regional authorities just one duty.

Although the Charter places a strong emphasis on conflict resolution, it does not forbid regional organizations from taking action in other areas. In fact, the Charter's article 52, paragraph 1, which mentions the promotion of respect for human rights as one of the organization's goals and guiding principles, provides a framework for regional action in this area without making it mandatory. Regionalism in the context of human rights was not well-liked for a very long time at the UN, there was often a propensity to see it as the expression of a breakaway movement, casting doubt on the universality of human rights. But when the International Human Rights Covenants were adopted in 1966, work on them was repeatedly put off, which caused the UN to reconsider regionalism in the field of human rights and become less wary of it (some could even say less envious). The General Assembly requested the United Nations Commission on Human Rights to study, among other things, the issue of creating suitable regional institutions to carry out specific duties related to the observance of the Covenants by passing Resolution on December 19, 1966. As a result, the Commission on Human Rights established an ad hoc committee to investigate the feasibility of creating regional human rights commissions within the framework of the United Nations.

The Group's 1968 report, which offered neither suggestions nor conclusions, only emphasized that the States in the area in question must take the lead in this subject. In spite of this, the UN has since hosted three regional seminars in Africa that have discussed the topic of regional commissions. The first of these took place in September 1962 in Cairo. Resolution 6 of 1970, which was based on the findings of that seminar and the report of the ad hoc study group, asked the Secretary-General "to arrange for appropriate consultation and exchange of information between the Commission and the Organization of African Unity with regard to the possible establishment of the suggested regional commission." A Dar-es-Salaam seminar on "new ways and means for promoting human rights with special attention to the problems and needs of Africa" concluded in 1973 that "an African Convention on

human rights should be prepared under OAU auspices and accepted in principle the need for an African Commission." The General Assembly urged States in regions where there aren't any regional human rights agreements to "consider agreements with a view to the establishment within their respective regions of suitable regional machinery for the promotion and protection of human rights" in a number of resolutions between 1977 and 1979.

The OAU Secretary-General was requested to convene a meeting of "highly qualified experts to prepare a preliminary draft of an 'African Charter on Human and Peoples' Rights,' providing, among other things, for the establishment of bodies to promote and protect human and peoples' rights," at the OAU Assembly of Heads of State and Government's 16th ordinary session in July 1979. In September 1979, a regional seminar sponsored by the United Nations on "the establishment of regional commissions on human rights with special reference to Africa" was held in Monrovia. A potential blueprint for such a commission was included in the "Monrovia Proposal for the Setting Up of an African Commission on Human Rights," which was approved. In Nairobi, Kenya, in June 1981, the African Charter of Human and Peoples' Rights was finally approved. The Law Association of Asia and the Western Pacific (LAWASIA) Conference in August 1979 recommended that the Council of Lawasia establish a Permanent Standing Committee on Human Rights with a view to establishing a center or centers for human rights in the region and working towards the creation of an Asian Commission and/or Court of Human Rights. This recommendation is relevant to other regions. Last but not least, though not strictly a regional initiative, it should be noted that in 1979 the Heads of Government of Commonwealth countries requested the Commonwealth Secretary-General to appoint a Working Group to look into a proposal made by The Gambia to create a Common wealth Human Rights Commission. The Commonwealth Heads of Government formally decided in October 1981 to create a separate division within the Commonwealth Secretariat for the advancement of human rights.

The Status of Regional Human Rights Institutions

There are currently indications of the regionalization of human rights on every continent, but only in very early stages in Asia. According to historical order, the European continent saw the beginning of this movement. Today, the international promotion and protection of human rights has three institutional components in Europe, but there are significant differences in both the development of this specific area of European legislation and the mechanisms put in place to carry it out. The following are these three dimensions. The aspect of the community. Respect for fundamental rights "forms an integral part of the general principles of law whose observation is ensured by the Court of Justice" within the European Communities, and "the protection of these rights, consonant with the constitutional traditions common to Member States, must be assured within the context and aims of the Community, International Handel gesellschaft with light of this, community law with regard to human rights, which is still in its infancy, is mostly jurisprudential in character, with the exception of instances when it is founded on an explicit provision of constitutional treaties, such as article 7 of the EEC Treaty, which affirms the concept of non-discrimination. Additionally, it should be mentioned that during the years 1979–1980, many actions were made to ensure the official adherence of the European Communities to the European Convention.

The Conference on Security and Co-operation in Europe (CSCE), as well as its follow-up initiatives and review conferences held in Belgrade in 1978 and Madrid in 1980–1982, provided institutional expression for the pan-European, or wider European, component. In addition to being listed as one of the "principles governing the mutual relations of the participating States" in the Final Act, the field of human rights which is preferred to be

referred to in that document as the "humanitarian field" and, more specifically, the freedom of movement of people, ideas, and information, are given specific objectives [4]–[6].

The "Roman" component, which is the most developed of all, has the Council of Europe as its institutional foundation and the Rome Convention for the Protection of Human Rights and Fundamental Freedoms as its legal foundation. In the framework of this thesis, freedoms and the Turin European Social Charter are of special significance. Outside of Europe, the regional protection of human rights is not characterized by the same level of institutionalization or growth. Since the Organization of American States, after establishing an Inter-American Commission on Human Rights in 1959, was successful in supplying it with a supporting framework in the form of the American Convention on Human Rights adopted in 1969 and which entered into force on July 18, 1978, the problem has been theoretically addressed on the American continent along the same lines as in Europe.

After stating their support for the Universal Declaration of Human Rights, the authors of the Charter of Addis Ababa that established the Organization of African Unity did not give human rights a prominent place on the African continent because no African body with specific responsibility for human rights had yet been established. However, we have already mentioned the recent measures that have been made in Africa in order to create a regional commission. It is true that the League of Arab States established a permanent Arab Commission on Human Rights in the Arab world in 1968, but this organization is insufficiently well-known, even in the Arab countries, and so far, its activities have gone unnoticed, with the exception of its work to draft a Declaration of the Rights of Arab Citizens. One cannot help but notice the connections that are being made between the African and Arab worlds. The Arab-African dialogue has already resulted in close collaboration in the social and economic spheres, and it is to be hoped that the human rights sphere will follow shortly.

Regional Integration and Human Rights

The European Convention on Human Rights currently the most advanced system for the protection of human rights in the region is intended to prepare the way for a unified Europe of which it would serve as the "axis" and is supported by and contributes to a strategy of European integration. It is also the most developed system for such protection on a regional level. It is a fact that the supra-national components it contains (the right of individual petition before a court and the Court's decision-making authority, in particular) would not endure for very long in an organic body that was purely intergovernmental or that lacked the capacity to transcend itself through a process of legal and even constitutional integration.

In terms of the geopolitical nature of current European organizations, this means that the Rome Convention needs both the institutional support of the Council of Europe and the political ramifications of the European Communities in order to exist and develop, just as the Council of Europe and the European Communities would not be able to remain isolated from the Convention without risk. Logically, it was apparent that the outcome of the Greek case, or the applications made by several European governments against the Greek government of the Colonels before the European Commission for Human Rights, had an impact on both the boundaries of the Council of Europe (since Greece withdrew from the Organization) and those of the European Communities (EC), as the operation of the Agreement establishing an Association between the EEC and Greece had to be suspended).

The European Convention of Human Rights' experience therefore tends to demonstrate that a region's human rights protection will only be fully successful if it is a component of that region's States' integration policies. Only at this cost can the essential universalism that

results from the shared humanity of all people be allowed to be struck back by regionalism in the "matter of human rights." The recent entry into force of the United Nations Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights, which should be preserved as a legal expression of the universal character of the human being, should even lead us to be stricter in the future with regard to regionalism than we were in the past when there appeared to be no universal system for the effective protection of human rights. In the end, regional protection must fall within the purview of regional organization in line with the United Nations Charter and become a component of the integration strategy. The parochial and maybe even selfish views that regional protection would also be the embodiment of, however, would in no way justify the risk of such a major blow to universalism if regional protection were only a kind of intergovernmental cooperation.

DISCUSSION

The institutional transformations that have occurred across diverse areas are a crucial topic of this study. These changes led to the establishment of regional organizations and procedures for advancing and defending human rights. For instance, a complete system focused on the European Convention on Human Rights and the European Court of Human Rights has been established on the European continent under the auspices of the Council of Europe. The Inter-American Commission on Human Rights and the American Convention on Human Rights were both established by the Organization of American States to address human rights concerns throughout the Americas. These institutional structures act as venues for member state collaboration, information sharing, and conflict resolution.

These regional efforts are not without difficulty, however, and the topic of debate also centers on the difficulties that these systems must overcome. Maintaining a balance between regional specificities and universal human rights norms is a big task. Regional efforts may weaken or deviate from the universal principles entrenched in international human rights accords, even while they try to address the unique needs and cultural variety of member nations. To guarantee that regional procedures strengthen rather than compromise the global human rights system, striking this balance needs careful consideration.

The topic is further complicated by geopolitical forces. Regional efforts often take place in wider geopolitical situations where nations may give political goals precedence over concerns of human rights. This may result in selective enforcement or an unwillingness to deal with delicate subjects. Additionally, different degrees of ability and commitment across member states, with some exhibiting a higher commitment to human rights than others, might undermine the efficacy of regional structures.

Furthermore, regional programs provide their own set of accountability and enforcement issues. Mechanisms like regional human rights courts or commissions may not have the power to carry out their rulings; instead, they depend on member states' goodwill to do so. This may lessen the effect of protecting human rights, particularly when nations are disobedient or unwilling to cooperate.

The debate over regional programs for promoting human rights is being discussed globally and includes actions to address these difficulties. Regional initiatives may operate as testing grounds for novel human rights protection strategies, a place where best practices can be exchanged and errors and achievements can be learned from. To coordinate efforts, avoid duplication, and guarantee consistency in human rights norms across many areas, cooperation between regional bodies and global organizations, such as the United Nations, is crucial [7]–[9].

CONCLUSION

In conclusion, the debate over regional efforts to advance human rights is complex, including both institutional advancements and the problems the world faces. The continuous conversation in this area is shaped in important ways by balancing regional specificities with universal ideals, managing geopolitical dynamics, maintaining accountability, and encouraging collaboration across regional and global platforms. To build a fairer and more equitable world, it is crucial to take a comprehensive and cooperative approach as nations continue to struggle with issues relating to human rights in their different areas.A complex interplay of institutional advances and global problems characterizes the debate around regional efforts for the advancement of human rights. The necessity of adjusting human rights strategies to each country's distinct geopolitical, cultural, and socioeconomic situations has increased as a result of these efforts, which are intended to address human rights challenges within various regional settings.

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CHAPTER 24

EVOLUTION OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

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ABSTRACT:

International human rights legislation, the European Convention on Human Rights (ECHR) protects a wide range of basic freedoms and rights for people living in Europe. This abstract explores the framework, institutional elements, and significant influence on the defense of human rights of the varied growth of the ECHR. The establishment of the Convention on November 4, 1950, was an important step toward regional human rights standards convergence. The signing of five further protocols in 1963 broadened its reach by recognizing rights different from those previously recognized. The European Commission and the European Court of Human Rights, two of the Convention's primary institutions, are crucial to maintaining its provisions. The Court's distinct ability to provide advisory opinions adds still another level of scrutiny. The Convention emphasizes systems for global control in addition to outlining a number of rights, such as the right to life, the prohibition of torture, and the right to a fair trial. The European Commission for Human Rights acts as a body for investigation and conciliation, assuming different duties depending on the circumstances. This abstract highlights the ECHR's crucial position in the contemporary human rights environment by shedding light on its complicated history, from its founding to its influence on state sovereignty and individual rights.

KEYWORDS:

European Court,European Convention, Fundamental Rights, Human Rights, Regional Mechanisms.

INTRODUCTION

The Convention for the Protection of Human Rights and Fundamental Freedoms was signed in Rome on November 4, 1950, and when the tenth instrument of ratification was presented, it came into effect on September 3, 1953. The Convention is supplemented by five additional, which can be divided into two groups, signed in Strasbourg on September 16, 1963, signed in Paris on March 20, 1953, both of which recognize rights and freedoms that are distinct from those already recognized in the Convention and whose provisions are referred to as additional articles. The European Commission and the Court of Human Rights, the Convention's two main bodies. Which was ratified in Strasbourg on May 6, 1963, the Court is authorized to provide advisory opinions. The Convention regarding the Commission's process are amended, which was also signed on May 6, 1963, in Strasbourg. On September 21st, 1970, they were put into effect. The fifth Protocol, which was signed in Strasbourg on January 20, 1966, came into effect on December 20, 1971. It was approved by Council of Europe Member States and changes Articles of the Convention, which regulate the election of members of the Commission and the Court [1]–[3]. The European Agreement Relating to Persons Participating in Proceedings of the European Commission and Court of Human Rights, which was signed in London on May 6, 1969, should also be included here. The aim of this Agreement is to provide certain specifically listed privileges and facilities to those who participate in Commission and Court proceedings as petitioners, witnesses, or in other roles.

The Agreement became operative on April 17, 1971. Twenty Council of Europe members, including Austria, Belgium, Cyprus, Denmark, Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom, and Turkey, were bound by the Convention as of January 1982. Except for Switzerland, the same States have ratified the First Additional Protocol. Austria, Belgium, Denmark, Federal Republic of Germany, France, Iceland, Ireland, Luxembourg, Norway, Portugal and Sweden are the countries.

These human rights include safeguarding one's physical safety

Right to life, prohibition of torture, cruel, inhumane, or degrading treatment or punishment, prohibition of slavery, servitude, or forced or compulsory labor, safeguarding one's freedom, safeguarding one's right to justice right to effective redress, right to a fair trial, rights of the accused); and safeguarding one's right to privacy (right to marry, right to respect for priva in addition, discrimination of any kind is not permitted while exercising rights that are protected. However, the Convention's uniqueness is not found in the range of rights it defends. It unquestionably resides in the Convention's institutional section, and more specifically, in the mechanisms for global oversight of compliance with its provisions. The European Commission of Human Rights, a body of inquiry and conciliation, the Committee of Ministers of the Council of Europe, a judicial decision-making body, the European Court of Human Rights, and an auxiliary organ of the Convention, the Secretary General of the Council of Europe, make up the long-lasting institutional framework that the Convention's creators designed.

The European Commission of Human Rights is one of two organizations mandated by Article 19 of the Convention to "ensure the observance of the engagements undertaken by the High Contracting Parties" and serves as an institution of investigation and conciliation. The Commission could be established immediately the Convention entered into effect on September 3, 1953, unlike the European Court of Human Rights, which required eight States to consent to its mandatory jurisdiction before it could be established. On May 18, 1954, the Commission's first round of elections was held. Section III of the Convention contains the broad guidelines for the structure, functioning, competence, and procedure of the Commission. The Rules of Procedure issued by the Commission in accordance with article 36 of the Convention, whose amended version entered into effect on May 15, 1980, provide a more precise definition of them. The establishment of the Commission, as a compromise measure between the competing demands of the individual, to whom the Convention's proponents wished to open the doors of the international court, and those of the State, which had to be safeguarded against improper individual appeals, expresses the Convention's originality in a clear and concise manner.

The Commission performs a wide range of duties that serve as both a monument to state sovereignty and a replacement for the court for the person. Frequently, the only connection between these activities is the parties' identities in the matter at hand. It alters its appearance as its function changes, much like several figures from Greek mythology. after determining whether an application is acceptable, a Chamber of Petitions first decides, but after the facts of the case are established, it drops down to the level of a plain examining magistrate. Since the interests of a State are at risk, it must also have the skills of a diplomat in order to act as a conciliating magistrate while seeking a peaceful resolution. The Commission then assumes the role of a professional expert on human rights, obligated to provide its "opinion" about whether the Convention has been violated. Last but not least, the Commission before the Court is tasked with carrying out the full range of judicial duties traditionally performed by an attorney general.

The Commission could only carry out these duties without too many conflicts if its jurisdictional nature was confirmed. Originally intended to be a straightforward administrative body tasked with conciliation and application sorting, the Commission discovered that these duties were really too many for a body that did not sit in a permanent capacity. To get around this, it set up shop as an international judicial body and forced itself on States and individual applicants. This unified desire on the part of its members is amply confirmed by the rules regulating its formation, administration, and practice, which have together formed a body of case law.

Organization and Functioning

The Commission is made up of an equal number of members to the High Contracting Parties. No more than two members may have the same nationality. As a result, there are now 20 members of the Commission. From a list of candidates put out by the Bureau of the Council of Europe's Consultative Assembly, the members of the Commission are chosen by the Committee of Ministers of the Council of Europe with an absolute majority of votes. The Consultative Assembly's High Contracting Party Representatives each propose three candidates, at least two of whom must be members of their own country. The requirements necessary to be a candidate are not specified by the Convention. The national groups in the Assembly have, however, always taken care to nominate candidates who exhibit high qualities and who actually meet the requirements outlined in article 39, paragraph 3, of the Convention for candidates for membership in the European Court of Human Rights, namely, to be of high moral character and either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence. Except for those elected at the inaugural election, which took place on May 18, 1954, members of the Commission are chosen for terms of six years, with half of them being replaced every three years. The goal of article 22 of the Convention, however, could not be fulfilled if new members had to be chosen due to fresh ratifications of the Convention since their six-year terms of office started at a date that was sometimes considerably different from that of the other members of the Commission.

Therefore, the 20th January 1966, states that, before proceeding with any subsequent election, the Committee of Ministers may decide that the term or terms of office of one or more members to be elected shall be for a period other than six years, but not less than three years nor more than nine years, in order to ensure that, as far as possible, one-half of the membership of the Commission shall be renewed every three years. The Commission's members are eligible for reelection. A member's resignation counts as a leave of absence from the office. The balance of the term of a member of the Commission who was elected to replace a member whose term has not yet ended is held by the replacement member. The members of the Commission, however, remain in office until they are replaced, at which point they continue to handle the cases they are currently considering. The issue of whether holding the position of member of the Commission is incompatible with performing certain professions or tasks is not addressed by the Convention. Given that the members of the Commission are not needed to have a permanent position within an organ that is yet a permanent one, it would have been impossible for it to have been otherwise. But it goes without saying that it is impossible to serve on both the Commission and the Court at the same time. Rules of Procedure merely state that a member of the Commission may not participate in the consideration of any case in which he has a personal interest, has had to be informed of the facts of the case as the advisor of one of the parties, as a member of a tribunal or commission of inquiry, or in any other capacity.

Additionally, the Rules of Procedure provide each member of the Commission the ability to exclude their name from consideration of a certain matter for a specified cause. Similarly, if a member or the Commission's President believes that a member should not participate in the discussion of a particular case because of a situation that could compromise that member's objectivity, the matter is brought before the Commission for decision. For a period of three years or, more precisely, for the interval between two partial renewals of Commission members, which may be, in accordance, inferior or superior to three years, the Commission elects its President and its first and second Vice-Presidents. The Commission's sessions are presided over by the President, who also oversees the work. If the President is unable to perform his responsibilities or if the office of the President is empty, the first Vice-President steps in to fill the vacancy, the second Vice-President steps in to fill the vacancy under the same circumstances. The President shall resign from his position as President in relation to a matter filed before the Commission if he is a national of, or was proposed as a candidate by, a High Contracting Party that is a party to the case.

The Convention makes no mention of the Commission members' compensation in any of its provisions. This silence may be explained by the fact that when the Convention was being written, it was unknown how much work the Commission would have to do or if its members would need to be present all the time. Because of this, it was impossible to choose between a set salary and pay for each day of work. Currently, the Committee of Ministers of the Council of Europe decides the amount of remuneration that the Commission members will receive. Location, meetings, and organizational structure The Council of Europe's Strasbourg headquarters serves as the Commission's location. The Commission has the right to determine at any time when evaluating an application whether it is necessary for it or one or more of its members to conduct an investigation or carry out any other duties outside of the Commission's normal working environment. As a result, local inquiries or trips to the claimed violation's location by multiple Commission representatives have become more common.

Ten of the twenty members that now make up the Commission must be present in order for there to be a quorum. Seven members, however, may make up a quorum, especially in the event of an individual application that has not been communicated to the State that it is being filed against. The Commission and its organs hold their meetings behind closed doors. As a result, it follows that the parties engaged are not permitted to disclose information about the process throughout the course of the proceedings. Press releases may sometimes be released by the Commission alone. This provision, which often causes issues, has received a lot of criticism, especially in situations with political ramifications when it is crucial, if not necessary, for the hearing to be made public.

It is inherently inappropriate given the nature of the Commission's mandate under the Convention to serve as the steward of human rights. A matter that hasn't been brought before the Court—whose hearings are, in principle, open to the public will have been examined during sessions that were conducted in secret since the Committee of Ministers also meets in that manner. In reality, the conciliation mission that the Convention assigns to the Commission at a certain point in the process justifies, or at least accounts for, the in-camera norm in the instance of the Commission. It is also driven by the Convention's architects' goal to provide States more protection against ill-intentioned or malicious uses. The norms governing good administration show that the Commission and the Council of Europe have strong ties. As a result, the Secretary-General of the Council of Europe, who also chooses the Secretary of the Commission, is responsible for providing the Secretariat of the Commission. According to the Rules of Procedure, sections 12 and 13, the Secretary of the Commission fulfills duties akin to those of the registrar of an international court [4]–[6].

The Commission is qualified to take notice of events that take place in areas where the Convention is being implemented. First and foremost, they are the national areas of the signatory states. It should be emphasized that the Federal Republic of Germany has declared that the Land of Berlin is part of the area to which the Convention applies. An express notice of extension is required in order for the Convention to extend to the non-metropolitan regions whose international relations the contracting States are in charge. Three States have used this faculty: the United Kingdom with regard to 42 territories, the Netherlands with regard to Surinam, which has since attained independence, and the Dutch West Indies; and Denmark with regard to Greenland, the majority of which have also attained independence. However, the Commission's ratione loci authority extends beyond only the national territory and non-metropolitan regions to which the Convention has been extended in accordance with article 63. Since everyone "within their jurisdiction" is required to have access to the rights and freedoms outlined in the Convention, article 1 of the Convention makes this clear.

That is, in line with the understanding provided by the Commission, particularly in its ruling on the application Cyprus u.'s admissibility. Turkey, to anybody who is really subject to their power or accountability, whether that authority is used inside its borders or outside. Noteworthy is the decision of the Committee of Ministers to maintain the Convention's status as a closed treaty. In February 1963, it decided not to act on the Assembly's suggestion that States who are not Council of Europe members but meet the necessary requirements be given the chance to accede to the Convention. At first glance, a Contracting Party's right to submit a petition to the Commission seems to be nothing more than a state's assertion of that right. But the reality is that the Convention's framework has no obligation relating to nationalism. As a result, while there may have been some connections between the applicant State and the victims, the putative victims in virtually all of the "State" petitions filed thus far were not its citizens. This method logically follows the "collective guarantee" mechanism put in place by the Convention.

Therefore, each contracting State is really accountable for ensuring that the rights are upheld over all of the territory where the Convention is in force. In such cases, one would be inclined to argue that a state’s ability to file an application is more of a responsibility than a right, and that in the end, the State is only putting public action into motion for the benefit of the whole European Community of human rights. This view is supported by the Commission's and the Court's authority to halt the parties from withdrawing their petitions. Since the 5 July 1955, when the requirement for the fulfillment of the right of individual application was met and six States had made the statement of acceptance, the Commission has only been authorized to hear individual applications. The following countries have issued such a proclamation as of January 1982: Austria, Belgium, Denmark, Federal Republic of Germany, France, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. It is important to note that two of these States expanded the use of the right to individual application to a number of areas for which they are responsible in terms of international relations but which do not all belong to the European continent.

The United Kingdom done similarly with regard to the following territories: Bermuda, Cayman Islands, Falkland Islands, Gibraltar, and Turks & Caicos Islands; the Netherlands did likewise with regard to the Dutch West Indies. Since what is involved is not only a right of gracious petition but a true right to commence proceedings before an international court instrument, it is evident that the right of individual application comprises the largest novelty established by the Convention. A person, non-governmental organization, or group of people must assert their victim status in order to properly file an application with the Commission. The protected rights must have been violated, according to the applicant.

As a consequence, the applicant's basis for action may be more or less direct as the concept of victim may be conceived a priori in more or less wide terms. In actuality, the issue is whether the right of action granted by article 25 is a personal right or, as in the case of applications made by States, more of a personal obligation on the side of the individual to initiate European judicial process. The second approach is more compelling intellectually because it gives legal voice to the de facto interdependence between the respect for human rights between individuals and between nations. The Commission's first rulings seemed to interpret the term "victim" pretty broadly. "Any alleged branch of the provisions of the Convention by another High Contracting Party" may be referred to the Commission by any Contracting Party (art. 24). As a result, every instance of a breach of a right protected by Section I may be reported to the Commission by a Contracting Party. However, it might also be used to refer to any "breach" of other Convention provisions. In actuality, there has never been an instance of the latter. Any alleged breach of the rights outlined in the Convention by one of the Contracting Parties may be taken into consideration by the Commission at the request of an individual. These rights are those that are outlined in the Convention's Section I as well as its Protocols Nos. 1 and 4. Exist any further clauses in the Convention or its Protocols that define an individual's rights? Regarding article 25, the answer is yes since it guarantees that the person won't be prevented from effectively exercising his right to refer applications to the Commission under the condition that the State has made a statement of approval of the right of individual application. However, this right to effective exercise of one's right to apply to the Commission without hindrance is not similar to other human rights safeguarded by the Commission. It is right sui generis, and as a result, it is exempt from the normal standards of admissibility. A State that has signed and ratified the European Convention of Human Rights and Fundamental Freedoms "must be understood as agreeing to restrict the free exercise of its rights under general international law," the Commission stated in its decision dated June 30, 1959. within the parameters of the commitments, it has agreed to be bound by under that Convention. As a result, a right that is not expressly stated in the Convention may nonetheless be indirectly protected by resorting to a right that is clearly specified in the Convention. The Commission's ratione temporis authority covers any events that occurred in relation to the Contracting Party that a complaint has been made about before the Convention came into effect. According to the Commission's position in one particular decision, "facts occurring before the date on which the Convention came into force in respect of a Contracting Party shall be within the competence of the Commission if, and to the extent that, they may lead to a continuous violation of the Convention extending beyond that date. In the later instance, a court ruling rendered before the Convention took effect with regard to Belgium resulted in the automatic execution of a legislative provision that gave birth to a persistent situation that the petitioner believed to be in violation of the Convention. The Commission's ratione temporis competence is of an objective nature and does not follow from commitments made by Contracting States to one another. The Italian government asserted the Commission's incompetence ratione temporis in the Austria v. Italy case after articulating a line of thinking based on the notion of the reciprocity of the undertakings performed. In essence, the Italian position was as follows: by ratifying the Convention on October 26, 1955, Italy made a commitment only with regard to the States that were High Contracting Parties at the time. However, because the events to which the application related happened in 1956 and because the majority of the proceedings occurred before Austria became a Contracting Party to the Convention (3 September 1958), the Commission lacked the ratione temporis authority to consider the application. The Italian position was rejected by the Commission.

The Commission stated the following after pointing out that no provision of the Convention restricted a state’s ability to file a complaint regarding events that occurred before that State

had ratified the Convention: "The purpose of the High Contracting Parties in concluding the Convention was not to concede to each other reciprocal rights and obligations in pursuance of their objectives and the ideals of the Council of Europe. ". The Commission concluded that these facts "indicate that the obligations undertaken by the High Contracting Parties in the Convention are fundamentally of an objective character, being designed rather to protect the fundamental rights for the High Contracting Parties themselves." The inference from the premises is that "Italy had no obligations toward Austria under the Convention in the Assize Court and the Court of Appeal, but that does not prevent Austria from now alleging a breach of the Convention with respect to those proceedings."

DISCUSSION

The development of the European Convention on Human Rights (ECHR) is a significant chapter in the history of international human rights law, marked by the creation of important institutions, the creation of a comprehensive framework, and a significant impact on the defense of human rights in Europe. Following World War II, attempts to assure the protection of basic rights across Europe culminated with the signing of the ECHR in Rome in 1950. Its development over time has been influenced by a number of reasons, including the enlargement of the Convention's purview, the creation of organizations to monitor its application, and the growing influence of the ECHR on the member nations' legal systems. The framework of the ECHR, which specifies the basic liberties and rights guaranteed by the Convention, has been crucial to the development of the Convention. These rights now include a broad range of civil, political, economic, social, and cultural rights as a result of their gradual expansion. The framework offers a basis for resolving new issues related to human rights, adjusting to social developments, and embracing changing legal standards.

The ECHR's institutions have played a crucial part in its development. Upon the Convention's entrance into effect, the European Commission of Human Rights was established as an inquiry and conciliation mechanism for alleged human rights abuses. Its function in handling individual applications paved the way for a more convenient means of obtaining justice at the local level. Furthermore, a key component of the Convention's enforcement mechanism since its founding in 1959 is the European Court of Human Rights. Its case law has established significant precedents in interpreting the terms of the Convention, and its competence extends to situations when alleged violators have exhausted local remedies [7]–[9]. The ECHR's effect on member nations' legal frameworks and the development of a human rights culture in Europe are indications of its influence. The Convention has prompted legislative changes to bring domestic legislation into compliance with the Convention's principles, increasing nations' responsibilities for respecting human rights. The ECHR has influence outside of the courtroom because its rulings often lead to wider policy modifications and public discussion of human rights concerns.

CONCLUSION

A culture of human rights knowledge and advocacy has also been fostered through the Convention's procedures, which have made it easier for nations and people to communicate with one another. The conclusion is that the creation of a strong framework, the construction of institutions for supervision, and a significant influence on the protection of human rights across Europe are characteristics of the evolution of the European Convention on Human Rights. The Convention is crucial for furthering human rights principles in the area because of its flexibility in responding to changing conditions and its influence on society and legal standards. The ECHR, despite its ongoing development, continues to be a crucial tool for defending the rights and liberties of people in Europe.

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CHAPTER 25

ORGANIZATION OF AMERICAN STATES' CHARTER AND THE ROAD TO GLOBAL RECOGNITION

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ABSTRACT:

The Organization of American States (OAS) Charter's importance in advancing and defending human rights on the American continent is explored in the abstract of the article "Championing Human Rights: The Charter of the Organization of American States and the Path to International Recognition." The Charter, which was ratified during the 9th International Conference of American States, outlines the universally recognized basic rights of every person and emphasizes the importance of democracy, social justice, and education as foundational elements of a fair and peaceful society. It underlines the link of democracy and human rights and represents a crucial step toward the acknowledgment of human rights on a global scale. The summary emphasizes how the Charter has helped to shape the notion of human rights, which now includes civil, political, economic, social, and cultural rights. The Charter's influence on the regional and global debate on human rights was further cemented by the creation of the Organization of American States (OAS) and its inclusion in the Universal System of the United Nations. The Charter provides a foundation for the protection of human rights on a global scale, notwithstanding various difficulties and disagreements regarding involvement. This synopsis summarizes the Charter's position as an advocate for human rights and charts its path to international protection.

KEYWORDS:

Charter, Human Rights, Inter-American System, OAS, Regional Cooperation.

INTRODUCTION

There are various sections pertaining to the basic rights of the human person in the Charter of the Organization of American States, which was signed during the 9th International Conference of American States. The preamble of the Constitution states that "the historic mission of America is to offer to man a land of liberty, and a conducive environment for the development of his personality and the realization of his just aspirations'" Several of the principles reaffirmed by the American States are related to human rights in order to further this mission.

The latter are declared to be "the fundamental rights of the individual without distinction as to race, nationality, creed, or sex," and it is spelled out that "the solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy"; it is also stated that "social justice and social security are bases of lasting peace" and that "the education of children is a prerequisite for a just and peaceful society." The Charter acknowledges that the issue of human rights is not only within the purview of national government, and it contemplates the potential of creating international legal norms for their defense [1]–[3].

Despite the text's clarity, the Charter does more than only "proclaim" an individual's rights; it also affirms the state's obligation to uphold such rights. The Bogota Charter signified, in America, a step towards the international recognition of human rights even though it did not clarify the relative competencies of its institutions with regard to the protection of human rights, which marked a step backwards in comparison to the United Nations Charter. The idea of human rights that developed from the Charter was one that recognized economic, social, and cultural rights alongside conventional civil and political rights and emphasized the importance of justice as the cornerstone of enduring peace.

The OAS was officially established in 1948, marking the end of a process that started in 1889 with the first Inter-American Conference. The Inter-American System was also incorporated into the Universal System of the United Nations as a Regional Agency. The principles proclaimed at Bogota in the matter of human rights con formed to criteria which had been worked out throughout the development of Pan-Americanism. The Charter was the "consecration" of an international organization "established to achieve an order of peace and justice." The recognition of an interdependent democracy in America led to the international affirmation of human rights in the inter-American system.4 This idea was developed at the Conference of Chapultepec in 1945 as follows.

"The goal of the State is man's happiness in society. The rights of the individual and the interests of society must coexist in harmony. The American guy is unable to imagine a world without justice. And the same Resolution, titled "International protection of human rights," declared the adherence of the American republics to the principles set forth in international law for preserving the fundamental human rights of all people by promoting a system for the protection of those rights on an international level. The Governing Board of the Pan American Union was asked to call a conference of jurists to ratify this draft declaration as a convention, and the Inter-American Juridical Committee was asked to produce a preliminary draft declaration of rights.

It envisioned the issue by suggesting that a system of multi-lateral involvement be investigated, building on the notion that it was vital to defend human rights at the global level. This was a mistake because it chose to suggest a method that, due to its nebulous and interventionist nature, was inevitably to spark ferocious opposition instead of suggesting the preparation of an international declaration and convention in which the means of protecting human rights would be established. The Inter-American Treaty of Reciprocal Assistance affirmed that peace is founded "on the international recognition and protection of human rights." The system for the protection of human rights as suggested in the note from November 1945 was rejected at the same time because none of the cases of collective action which is a different concept from that of multilateral intervention were anticipated on the basis of a violation of human rights, and this text related to the principle of non-intervention once again condemned both individual and multilateral intervention.

The "American Declaration of the Rights and Duties of Man" was approved at Bogota despite the "deep-seated divergences in respect of the way in which the protection of human rights should be envisaged and which prevented any further progress being made in settling this question," representing a step backwards in comparison to the Chapultepec resolution. This Declaration, which was authorized a few months before the United Nations adopted the "Universal Declaration of Human Rights," affirmed the rights and obligations of man in a wide and liberal style. Since "the fulfillment of duty by each individual is a prerequisite to the rights of all," it was acknowledged that man's rights were "based upon attributes of his human personality," related to his obligations.

It was stated that the rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy." It was declared that "the international protection of the rights of man should be the principal guide of an evolving American law" and that the list of rights established in the Declaration together with the guarantees given by the internal regimes of the states constitute "the initial system of protection considered by the American States as being suited to the present social and juridical conditions, not without a recognition on their part that they should increasingly strengthen that system in the international field as conditions become more favourable.

"Inter-American Charter of Social Guarantees." As economic and social rights had not been included in the Declaration, it was indispensable that a complementary text be established, for it was necessary to demand that democratic regimes respect political freedoms and the spirit and application of the postulates of social justice. The Inter-American Juridical Committee was asked by the Conference of Bogota to draft the rules for an Inter-American court to protect human rights. Two Conventions on the political and civic rights of women were also approved. The years that followed did not see much development.

However, this did not imply that the issue had been forgotten. Methodically reiterated everything that had been accomplished to that point and took steps to encourage comparative law studies and assure the spread of knowledge on the topic. In Resolution XXIX, it was determined that the Organization's Council will continue to research the legal aspects of the protection of human rights internationally in order to consider the feasibility of establishing an international court.

The international environment in which the American States were at the time was not quite ripe for a procedure that would allow for significant advancement in this area. The Inter American Juridical Committee further noted that Resolution XXX1 of the Bogota Conference was inapplicable since there was no explicit legislation on the matter. For this reason, it was advised that a Convention be drafted that would create an international framework for the protection of specific rights and provide for the responsibility to respect those rights, following the strategy used by the United Nations when it decided to draft the Covenants on Human Rights. Resolutions VII and IX on the advancement of economic, social, and cultural levels as well as the preservation of human rights internationally were agreed during the Washington Consultation Meeting in 1951. Before the process began again at the 5th Meeting of Consultation (Santiago, Chile, 1959), more years would pass.

The establishment of a worldwide system for the protection of human rights was possible under American law. It was recognized from that time onwards that this subject was not solely a matter of the domestic jurisdiction of each State, that international regulations were possible and that the machinery of protection to be established by way of a Convention between the States did not constitute a violation of the sovereignty of those States.14 To get beyond the stages already covered since 1948, the same approach had to be adopted as had governed the preparation of the American Declaration of the Rights and Duties of Man. A declaration together with a system of implementation solely at the level of municipal law constituted "the initial system of protection" to which an international system had to be joined which would foster the promotion and protection of human rights "as conditions become more favourable." From the political point of view, the consequence of the repeated violations of human rights perpetrated by the Trujillo regime in the Dominican Republic and their external projection in the form of acts of intervention which endangered peace and security made it favourable for a new stage to be initiated in the process aimed at ensuring the international protection of human rights.

At the fifth Consultation Meeting, steps were made to draft an American Convention on Human Rights. The immediate establishment of the Inter American Commission on Human Rights was chosen in an effort to establish a complementary structure. I will first examine the changes made to the Bogota Charter by the Buenos Aires Protocol of February 2, 1967, with the exception of the two points already mentioned, which will be addressed separately, before turning to the Inter-American Commission on Human Rights and the American Convention on Human Rights. Article 5 of the Charter, which became article 3 and in which the American States reaffirmed the essential tenets of the system, was left intact. All human beings, without distinction as to race, sex, nationality creed or social condition, have a right to material well-being and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security; Work is a right and a social duty, it gives dignity to the one who performs it, and it should be performed under conditions, including a system of fair wages, that ensure life, health, and a decent standard of living for the worker and his family, both during his working years and in his old age, or when any circumstance deprives him of the possibility of working; Employers and workers, both rural and urban, have the right to strike, and recognition of the juridical personality of associations and the protection of their freedom and independence, all in accordance with applicable laws." The Member States will exert the greatest efforts, in accordance with their constitutional processes, to ensure the effective exercise of the right to education and to ensure that the benefits of culture are available to the entire population, on the bases established in articles 47 and 48, among which the following deserve to be emphasized: "Elementary education, compulsory for children of school age, shall also be offered to all others who can benefit from it. When provided by the State it shall be without charge; Middle-level education shall be extended progressively to as much of the population as possible, with a view to social improvement. Higher education shall be available to all.

Thus, the revised Charter of the OAS included a declaration of economic social and cultural rights, but not a declaration of civil and political rights which were listed only in the American Declaration of the Rights and Duties of Man. However, since the entry into force, in 1978, of the American Convention, civil and political rights have been covered by a new instrument which pro vides for a specific system of international protection. As for economic, social and cultural rights which, according to the "Pact of San Jose," are defined by the amended Charter, problems will continue to arise until the Member States have fulfilled their undertaking to adopt new internal provisions and to have recourse to international co-operation so as progressively to ensure that these rights are fully effective. Since the entry into force of the Protocol of Buenos Aires, the General Assembly has continued to deal with the question of human rights, in particular when it has had to consider the reports of the Inter-American Commission on Human Rights.i7 The conception of the rights of the individual affirmed in the inter-American system starts off from the idea that man has rights which are inherent in his own nature, which predate the existence of the State and which are not the result of juridical attributions. Thus, municipal law and international law do not create rights but contribute, each in its own sphere, and in a harmonious manner, to their affirmation and protection. This is a conception which is directly bound up with democracy as a form assumed by the State and as a political and philosophical idea.

The 5th Meeting of Consultation of Ministers of Foreign Affairs created, by its Resolution VIII, an Inter-American Commission on Human Rights. This resolution originated from a feeling that the way had been paved in the hemisphere for the conclusion of an agreement. Consequently, it was stipulated that a Convention on Human Rights be prepared and, at the same time, that an Inter-American Commission on Human Rights be set up. The Commission was thus created by a resolution of a Meeting of Consultation as a complementary measure,

which provided for the preparation of a draft Convention. The Commission could not be a new organ of the Organization, for such an organ could be created only by the Inter-American Conference and not by a Meeting of Consultation of Ministers of Foreign Affairs. It also couldn't be a specialized organization or a Council organ. The Commission's competence presented challenges because, having been established by a straightforward resolution, it could not be charged with promoting respect for human rights broadly; to do so would have amounted to giving it authority comparable to that of the organs for the protection of human rights to be established by the Convention, whose preparation had been mandated by Resolution VIII. In May and June 1960, the Organization's Council adopted the Commission's Statute. In order to keep the issue within the parameters of the resolution authorizing the creation of the Commission, the Council immediately modified the original text. According to the Statute, it is "an autonomous entity of the Organization of American States, the function of which is to promote respect for human rights".

Human rights are understood to be those set forth in the American Declaration of the Rights and Duties of Man" (for the purposes of the Statute. After dealing with the membership of the Commission, the Statute assigned it, in article 9, several specific powers so that it could carry out its function of promoting respect for human rights. This provision gave the American Declaration of 1948 a possibility of application that had been lacking until then and a specific scope that far exceeded the modest functions that had been envisaged at Bogotá. The Statute simultaneously dealt with issues pertaining to the Commission's location, meetings, quorum, voting, secretariat, and Statute revisions. The Commission attempted, unsuccessfully, to have its Statute amended in order to broaden its powers, particularly in regard to the examination of claims or communications. Once established, the Commission itself, in accordance with its Statute, established its Regulations, which opened the door to a potential expansion of its powers, particularly with regard to the procedure for considering communications. Despite the 8th Meeting of Consultation's recommendation, the Council did not act on these requests. Instead, it was the 2nd Special Inter-American Conference (November 1965) that decided, through its resolution XXII, which originated with the Commission and was in line with the opinion of the OAS Secretary-General himself, to expand the jurisdiction of the Inter-American Commission on Human Rights along the lines previously mentioned.

The Commission Statute was altered as a consequence of this decision. Articles 7A and 14A of the Statute were amended to improve the efficiency of the Commission's working and administrative structure. Additionally, article 9A was introduced to the Statute to expand the Commission's authority. It was no longer only a matter of advancing human rights in the strictest sense. The Commission was also given authority over oversight and control, tasked with investigating communications and complaints. From this point forward, the Commission could request reports from Governments and submit an annual report to the Inter-American Conference or the Meeting of Consultation that included a general statement and observations on topics covered in communications that it had to confirm whether or not Thus, the Commission evolved into a body with extensive authority over both the preservation and advancement of human rights.

Resolution XXII, by which the Inter-American Conference approved the Commission's new mandate, corrected the legal problem with its establishment but did not entirely resolve the argument that a body endowed with such authority as that granted to the Commission should be established by a special convention. Despite supporting the goals of the international protection of human rights, numerous States chose to abstain from voting for this reason.

The Commission was able to expand its work significantly as a result of these changes to its statute. The Inter-American Commission on Human Rights' existence and mandate were

firmly established by the Protocol of Buenos Aires relating to the amendment of the OAS Charter, which was modified as a result of a process marked by the 2nd Special Inter-American Conference, the Special Meeting of Panama, and the 3rd Special Inter-American Conference of Buenos Aires. The Commission was included to the list of organizations that the Organization will use to carry out its objectives. An inter-American convention on human rights shall determine the structure, competence, and procedure of this Commission. Most significantly, however, article 150 provided that, prior to the entry into force of the Inter-American Convention on Human Rights, the Commission shall promote the observance and protection of human rights and serve as a consultative organ of the Organization in these matters. Thus, a convention was used to formalize the Commission's expanded authority that had been resolved upon in Rio de Janeiro in 1965. Resolution VIII of the Fifth Meeting of Consultation also defined the composition, election process, etc, of the Commission. These issues are also included in the Inter-American Commission on Human Rights Statute, which was enacted in October 1979 during the OAS's Ninth Ordinary Session in La Paz, Bolivia. The seven members of the Commission are chosen in accordance with the rules of the Statute, which came into force in November 1979, by the Council of the Organization, in their individual capacities, from a list from which each Member State may nominate three experts. The members of the Commission must be citizens of the Organization's Member States; they are chosen based on their sterling moral character and established expertise in the area of human rights. They act on behalf of the Organization and all of its Member States. They may only be reelected once throughout their four years in office.

The Commission elects a chairman and two Vice-Chairmen, who serve for one year each and are only eligible for reelection once every four years. The Commission's permanent offices are in Washington, D.C., although it is permitted to convene meetings and carry out its functions on any American State's territory with the permission or invitation of the relevant government and a simple majority of votes. The 1967 Commission rules will be in effect until new rules are issued as a temporary measure. In any case, the OAS Permanent Council's September 1978 decision mandates that the Commission only apply its new Statute and Regulations to nations that have ratified the American Convention. For those OAS States that are not party to the Convention, the pre-1979 arrangements will thus continue to be in effect. A dedicated functional unit of the General Secretariat of the OAS provides the Secretariat services for the Commission. The Organization's budget includes funding for the salaries and travel costs of the Commission members as well as the administrative costs of the Secretariat.

The following are the functions and powers that the Commission has to carry out its mandate of promoting respect for human rights: to raise awareness of human rights among Americans; to encourage governments to promulgate progressive measures within the confines of domestic legislation for the realization of human rights; and to adopt appropriate measures in accordance with their constitutional precepts to ensure the faithful observance of those are these powers of the Commission, which are listed in article 9 of its Statute, flow naturally from its primary duty, which is to advance the respect for human rights. They did not imply the assignment of any authority to consider communications or complaints pertaining to specific instances of human rights violations or to make judgments about such cases. However, by being given the responsibility of advising governments to adopt progressive measures in support of human rights within the confines of their domestic legislation and, in accordance with their constitutional precepts, appropriate measures to ensure the faithful observance of those rights, and by having the option of asking governments to provide it with information on the measures they have adopted in the field of human rights, a human rights commission has the opportunity to make recommendations to governments.

This problem was resolved when the Statute was revised by Resolution XXII of the 2nd Special Inter American Conference, leading to article 9 bis. It made it possible for the Commission's powers to be enlarged and, in addition, enabled the problem to be centered not only on the rights declared by the municipal law of the American States but also on the rights proclaimed in the American Declaration of the Rights and Duties of Man.27 Thus, from 1965 onwards, the Commission, in addition to its initial powers, was instructed: "To examine communications submitted to it and any other available information; to address the government of any American State for information deemed pertinent by the Commission; and to make recommendations when it deems this appropriate, with the objective of bringing about more effective observance of fundamental human rights; to submit a report annually to the Inter-American Conference or to the Meeting of Consultation of Ministers of Foreign Affairs, which should include:

a) A statement of progress achieved in realization of the goals set forth in the American Declaration;
b) A statement of areas in which further steps are needed to give effect to the human rights set forth in the American Declaration; and
c) Such observations as the Commission may deem appropriate on matters covered in the communications submitted to it and in other information available to the Commission."

In the exercise of its powers relating to communications submitted to it, the Commission must first of all verify whether the internal remedies of each State have been duly applied and exhausted. It may apply to any American State to seek information considered pertinent by it in order to examine the communication. The Commission must yearly report to the Inter-American Conference or the Meeting of Consultation of Ministers of Foreign Affairs and may also offer suggestions "with the objective of bringing about more effective observance of fundamental human rights." This report may draw the supreme organ of the inter-American system's attention to specific incidents addressed by communications in addition to the overall state of human rights in America and the necessary actions to enhance it. It was not deemed sufficient to specify the formal requirements to be met by communications and grounds for inadmissibility, so it was also stipulated that communications must be addressed to the Commission within a reasonable period of time, in the opinion of the Commission, and that communications must be addressed to the Commission within a reasonable period of time, in accordance with the Commission's Regulations, which were adopted in 1967. Regulations regarding the process to be followed were established, including an exclusive process for complaints of violations of those human rights listed in Resolution XXII, of the Second Special Inter-American Conference, as well as provisions for the examination of evidence and observation. In this regard, it is stated that the occurrence of the events on which information has been requested will be presumed to be confirmed if the Government in question does not provide such information within 180 days of the request, provided always that the invalidity of the events denounced is not shown by other elements of proof, and on the understanding that the Commission may make an extension of the term of 180 days.

The revised Commission Statute was accepted by the OAS General Assembly in 1979. The new Statute incorporates significant revisions to the previous text that resulted from the Commission's work experience and application of its prior Statute and Regulations. It also takes into account the ramifications of the Pact of San Jo's implementation and the requirement to distinguish between the Commission's competence as an inter-American system organ in respect of all OAS Member States. The Commission has made a significant accomplishment, of which the most outstanding features ought to be highlighted.

It has always understood its powers in the widest meaning and in the way that would allow it to carry out its duties in the most efficient way possible. In order to advance the protection of human rights in America, it has made significant contributions to the creation of a system for governments to submit information on a regular basis regarding civil, political, economic, social, and cultural rights. It has also done significant work to disseminate information on issues pertaining to those rights, either through the preparation of studies, the publication of texts, the organization of conferences, or through the establishment of national commissions on human rights. Each year, the Commission, which serves as the inter-American system's technical advisory body on human rights, has gathered a sizable amount of data and contributed significantly to the development of both the American Convention on Human Rights and the Draft Inter-American Convention on Freedom of Expression, Information, and Investigation. The Commission has had to undertake the challenging task of analyzing the situation regarding human rights in each of the Member States in order to carry out its task of obtaining information and taking action in specific situations concerning several American States."

Lastly, in examining the issues raised by individual communications and making decisions in that connection, the Commission has developed an extremely interesting case-law which has enabled the Thousands of communications have already been analyzed by the Commission. For instance, it initiated 1044 different cases of suspected human rights abuses in 1978. The Commission's Annual Report only includes observations on cases that it has processed and examined during the reporting period, where a disregard for human rights has been confirmed and where the appropriate recommendations have been made to the government in question. This is in accordance with its Statute. Thus, the Commission's observations relating to 37 cases involving 5 countries were included in the 1978 report. In the case-law that the Commission established in examining communications, two points deserve to be emphasized:

a) The criterion according to which the prior exhaustion of domestic remedies must be taken to mean judicial remedies: the fact that a non-judicial remedy is pending does not prevent recourse to the Commission; and
b) The distinction between specific and general remedies. Its significance to the development of public understanding of human rights and the promotion of respect for such rights is indisputable.

Due to circumstances of a general character that obstruct and restrict the full implementation of human rights in that continent, the majority of its activity has not had any direct influence on the observance of human rights in America. Additionally, despite drawing the attention of experts, persistent and persistent activity has not benefitted from the assistance of the information medium, particularly the press. Currently, neither the Commission's accomplishments nor the opportunities provided by its Statute for reporting human rights abuses on the American continent and filing pertinent complaints are known to the people of America. The Commission's options for action are constrained by its pre-1979 Statute, especially when it comes to specific circumstances that call for additional action by the OAS General Assembly. Furthermore, up until recently, the latter body was typically satisfied to do little more than take notice of the Com mission's yearly reports.

But this is no longer the case, as shown by the resolution passed by the OAS General Assembly's Ninth Ordinary Session in October 1979. The General Assembly, among other things, stated in its resolution "that the practice of disappearance is an affront to the conscience of the hemisphere, and is totally contrary to our common traditional values and to the declarations and agreements signed by the American States" and supported "the Commission's recommendation for prompt clarification of the status of persons who have

disappeared under circumstances described in the annual report." The OAS General Assembly approved this in 1978 (res. 368), and the Commission subsequently drafted a draft that was sent to the Inter-American Judicial Committee for comments in 1980. Thus, in my judgment, the Commission's work has been judged to be definitely positive. Its efforts have been admirable, especially when one considers the restrictions on its ability to act and the unfavorable political influences on the OAS General Assembly. For the affirming and upholding of human rights in America, the Commission has overall achieved a tremendous deal of work [4]–[6].

DISCUSSION

The phrase "championing" refers to active advocacy and support for a cause. The Organization of American States' (OAS) Charter is a prime example of the group's commitment to maintaining and advancing human rights as a core component of its purpose. Human Rights, the primary topic of debate, human rights include the fundamental freedoms and rights to which every person is entitled, irrespective of their country, ethnicity, or origin. The importance of defending fundamental rights across the Americas is emphasized throughout the Charter.

The founding charter of the Organization of American States, which was published in 1948, is referred to here. The organization's objectives and guiding values, such as its dedication to democracy, peace, security, and human rights, are outlined in the Charter. The OAS's approach to gaining worldwide recognition for its work to advance human rights is denoted by the phrase "Path to International Recognition." The Charter provided a framework for collaboration and communication across American states in order to accomplish shared goals, including the acknowledgement of human rights as a universal value.

Organization of American States

Comprised of nations from North, Central, and South America as well as the Caribbean, the OAS is a regional intergovernmental organization. Its charter is a crucial tool for fostering regional cooperation and promoting human rights. This term describes how the world community has acknowledged and supported the ideas and programs contained in the OAS Charter. The significance of protecting human rights is underscored by this realization. The cooperative efforts made by American states to handle shared problems and advance shared ideals, such as human rights [7]–[9].

CONCLUSION

The exploration of the subject "Championing Human Rights: The Charter of the Organization of American States and the Path to International Recognition" concludes by emphasizing the significant contribution made by the OAS Charter to the advancement of human rights and the promotion of international cooperation. The Charter is a monument to the willingness of American states to defend basic freedoms and liberties, regardless of location or political affiliation.

It is clear from a thorough analysis of the Charter's contents and historical background that the OAS set out on a visionary path to advance human rights on a regional and international level. The Charter paved the way for member nations to work together to solve common problems and advance a more fair and equitable society by upholding the values of democracy, social justice, and respect for human dignity.

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