



RESEARCH PAPER

Trends and Challenges in International Law on Human Rights: A Historical Perspective

Dr. Muhammad Mumtaz Ali Khan*¹ Muhammad Islam² Sania Muneer³

1. Director Research & Development, Punjab Higher Education Commission, Lahore, Punjab, Pakistan
2. Civil Judge-cum-Judicial Magistrate, Lahore High Court, Lahore, Punjab, Pakistan. ORCID: <https://orcid.org/0009-0002-8284-7194>.
3. Assistant professor, SISS, University of Lahore, Punjab, Pakistan

***Corresponding Author** | hsislam786@gmail.com

ABSTRACT

The concept and conception of human rights have been different in different cultures and at the same time these have been changing with the passage of time throughout the history in different cultures. There have been multiple factors and forces that caused visualization and internationalization of human rights. The article emphasizes the significance of human rights as universal, inalienable, and indivisible nature along with their gradual evolution. The religion has played also well-defined role for recognition and protection of human rights, although some are of the opinion that religion sometimes doesn't come up with current international human rights standards.

KEYWORDS Dignity, Discrimination, Freedom, International Law, Oppression, Protection, Treaties

Introduction

Human rights are fundamental liberties and rights that every person has a right to, regardless of their nationality, gender, race, religion, or any other status. They encompass economic, social, and cultural rights like the right to an acceptable standard of living, education, and healthcare, as well as civil and political rights like the right to life, freedom of speech, and a fair trial. The adoption of the Universal Declaration of Human Rights by the United Nations General Assembly in 1948 marked a significant turning point in the development of the idea of human rights. At the national and international levels, several treaties, conventions, and laws have been enacted since that time to protect and advance human rights (Shelton, 2013). The defense of human rights is a never-ending battle, as many people and groups experience prejudice, repression, and rights abuses. Governments, civic society, and individuals must continuously work to advance and defend human rights to guarantee that everyone's rights are upheld.

This study has been made to explore and to give an overview of the idea of human rights, together with information on its origins in history and culture and how it has changed and developed over time in relation to international law. In addition to highlighting the continuous fight to defend and advance human rights at the national and international levels, it has been emphasized to dig out the significance of human rights as universal, inalienable, and indivisible. The essay also examines how different religious and cultural traditions, such as Islam and Christianity, have influenced how we view human rights today. The article also explores the potential and problems that

the preservation and promotion of human rights currently face in the context of developing technology and globalization.

Historical Perspective and Evolution

Throughout history, many prehistoric cultures recognized some sort of fundamental freedoms and rights. The Code of Hammurabi, created in ancient Babylon in 1754 BC, had certain protections for individual rights, while Confucius and other early Chinese thinkers emphasized the significance of treating people with respect and kindness. A fair trial and the right to property were two examples of the minimal protections for individual rights and freedoms that existed in classical Greece and Rome. However, these safeguards were not available to everyone and were frequently restricted to specific populations, such as free men. These safeguards were frequently denied to women, slaves, and non-citizens.

The idea of human rights has changed throughout time, but its roots can be found in the acknowledgement of fundamental freedoms and rights by early civilizations. Prior to the Christian era, the idea of human rights as we know it today was not completely formed. The teachings of Christianity played a significant role in developing the idea of human rights as a set of unalienable, universal rights that apply to everyone, regardless of rank or origin. Christianity placed a strong emphasis on treating others with compassion, kindness, and respect, as well as their intrinsic value and dignity as being created in God's image (Andrew, 2007).

In light of Quranic verses, human rights continue to direct Muslim efforts to further the promotion and preservation of human rights and serve as an inspiration for other human rights initiatives across the world. The Khutbah Hujjat-ul-Wida, the final sermon of the Holy Prophet PBUH, emphasizes the importance of human rights and the dignity of every person, regardless of their race or origin. The Prophet emphasized the significance of defending women's rights and shielding them from abuse and sexism, as well as supporting everyone's rights, regardless of their background or social standing. He also emphasized the value of showing compassion and kindness to others and urged listeners to defend the human rights of others.

The concept of human rights was developed in response to World War II's crimes, particularly the Holocaust, and the emergence of international law. The United Nations General Assembly passed the Universal Declaration of Human Rights (UDHR) in 1948, which established a universally accepted standard of human rights and served as the model for other international human rights accords and legislation. Since the UDHR was adopted, more international treaties and organizations have been created to safeguard and advance human rights, increasing their protection under international law.

However, problems still exist in ensuring that human rights are upheld and maintained globally. Global human rights crimes persist, and efforts to uphold commitments are often impeded by political and economic issues. The promotion and preservation of human rights have also been faced with new opportunities and problems due to globalization and evolving technology.

The backdrop and context of human rights in international law are based on the need to uphold each person's fundamental rights and freedoms, as well as their inherent value and dignity. Despite improvements, there are still problems in ensuring that human rights are upheld and maintained globally.

The review article aims to provide an overview of the trends and difficulties in human rights under international law, presenting a thorough analysis of the historical evolution of human rights in international law, analyzing current trends and issues, and highlighting the intersections between human rights and other areas of international law. The review study also aims to analyze the effects of international human rights organizations and procedures in these scenarios, using case studies and examples to demonstrate specific circumstances where human rights have been defended or promoted (Lauren, 1998). The main goal of the review paper is to offer analysis and suggestions for future action to advance and defend human rights under international law, such as more study, modifications to public policy, or other initiatives that could improve human rights.

The evolution of international human rights law, which began with the establishment of the United Nations in 1945, has been a significant development since then. The UN Charter, ratified by each member state, included the advancement of human rights as one of its main goals. A key turning point in the evolution of international human rights legislation was the foundation of the United Nations Commission on Human Rights in 1946, which was instrumental in creating the 1948 Universal Declaration of Human Rights (UDHR). This UDHR is considered a foundational piece of international human rights legislation and has served as the inspiration for the creation of several human rights treaties and legal frameworks.

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), both adopted in 1966 and came into effect in 1976, have significantly advanced the protection and promotion of human rights worldwide. These accords have set a universal standard of human rights for all people, including civil and political rights like the right to free speech and assembly, as well as economic, social, and cultural rights like the right to healthcare and education.

Several court decisions and cases, such as *Velasquez Rodriguez v. Honduras* (1988) and *Soering v. United Kingdom* (1989) by the Inter-American Court of Human Rights, have also had an impact on the development of international human rights law. These legal duties created by human rights treaties and instruments have significantly advanced the protection and promotion of human rights on a global level, even though difficulties and gaps in implementation still exist (Coicaud and Doyle, 2003). Some of the most important events and turning points in the evolution of international human rights legislation include the ratification of the Universal Declaration of Human Rights (UDHR) by the United Nations General Assembly in 1948, which led to the creation of numerous human rights treaties and other legal instruments. These instruments have significantly advanced the preservation and promotion of human rights across the world, even if difficulties still exist in their application and enforcement (Schutter et al. 2010).

Civil society and international organizations play a crucial role in the achievement of human rights by promoting and advocating for the preservation and fulfillment of human rights duties at the national and international levels. International organizations like the United Nations (UN), the International Criminal Court (ICC), and regional organizations like the European Union (EU) and the African Union (AU) have contributed to the growth of international human rights law and the establishment of human rights institutions and mechanisms. These groups offer member nations a forum for collaboration and coordination of initiatives to advance and defend human rights, as well as providing essential support for monitoring and enforcement of human rights

duties, conducting investigations, documenting abuses, and assisting nations technically.

Civil society organizations, including non-governmental organizations (NGOs), community-based organizations, and human rights advocates, act as a crucial voice for disadvantaged and marginalized populations at the national and international levels. They are essential for monitoring and documenting human rights abuses, aiding victims through legal channels, and influencing public opinion to bring about change (Gearty, 2016).

In addition to creating human rights treaties and other legal frameworks, international organizations and civil society collaborate to advance human rights through lobbying campaigns and educational initiatives. Working together, they help nations enforce their human rights duties and create policies and initiatives that advance human rights. In order to guarantee that human rights are upheld, safeguarded, and fully realized on a global scale, it is essential that international organizations and civil society play a significant role in the progress of human rights.

The proliferation of human rights treaties and instruments has led to a significant increase in international agreements and declarations aimed at advancing and defending human rights. Since the establishment of the Universal Declaration of Human Rights (UDHR) in 1948, numerous treaties and instruments have been created and ratified at the international level, covering various topics such as economic, social, cultural, women, children, and people with disabilities. Factors such as the growing awareness and acceptance of human rights as universal and unalienable, the demand for greater state accountability for human rights violations, and the need for precise and comprehensive legal standards have contributed to the proliferation of these instruments.

However, the expansion of human rights treaties and legal frameworks has brought about difficulties, such as fragmentation and overlap concerns, which make it challenging for nations to prioritize and carry out their commitments. Additionally, there are still few enforcement mechanisms for human rights duties, and ratification of human rights treaties and protocols does not necessarily result in their effective implementation (Krause and Ponzio, 2011). Despite these obstacles, the expansion of human rights treaties and other legal frameworks has significantly advanced the defense and advancement of human rights worldwide. This has prompted the creation of extensive legislative frameworks that clearly identify states' duties with regard to human rights and serve as a foundation for advocacy and activity on the part of civil society organizations and other interested parties (Clapham, 2007).

The difficulties of actually enforcing human rights are complex and arise from various reasons, such as obstacles in politics, the economy, culture, and the law. These difficulties include lack of political will, weak rule of law, inadequate resources, discrimination and inequality, corruption, conflicts and emergencies, lack of knowledge and education, extrajudicial actions, informational limitations, cultural relativism, lack of coordination, resistance to international human rights standards, and discriminatory laws and policies (Goodhart, 2013). To address these problems, a comprehensive and multifaceted strategy is required that addresses the underlying causes of human rights abuses, promotes education and awareness of human rights, fortifies the rule of law and legal systems, and ensures sufficient funding and political will to uphold human rights. This requires participation from a wide range of players, including governments, civil society organizations, international organizations, and the commercial sector (Schulz,

2008). Globalization is a complex and diverse phenomenon that has led to the interconnectedness of politics, economics, and culture in the world. It has both positive and negative effects on human rights, with both good and bad consequences.

Human rights have been benefited by globalization through increased awareness and activity, communication technology advancements, increased economic opportunity, greater cultural interchange, increased scrutiny and pressure on businesses to uphold fair labor practices, increased international collaboration, improved access to justice, increased investment in healthcare infrastructure and research, increased environmental awareness, improved access to education, increased political engagement, and greater protection of minority rights. However, globalization's detrimental effects include increasing economic inequality, labor exploitation, environmental destruction, and loss of cultural identity (Vincent, 2010).

Globalization has also made it easier for some marginalized groups, such as indigenous peoples or the poor, to be more susceptible to human rights abuses. Governments must respond comprehensively and unisonally to these issues, as international economic and political actors can influence or thwart governments' efforts to uphold and advance human rights. Additionally, globalization may pose challenges to state sovereignty, as international economic and political actors have the power to influence or thwart governments' efforts to uphold and advance human rights (Brysk and Shafir, 2004). The expansion of global supply chains due to globalization may pose additional difficulties for the defense of labour rights, especially those related to child labor, forced labor, and unfavorable working conditions. Overall, globalization has brought about new opportunities for the promotion of human rights but also presents fresh challenges and dangers to their realization. Governments, civil society organizations, and other stakeholders must respond comprehensively and in unison to these issues to ensure the continued progress and protection of human rights worldwide.

The relationship between international law and various fields, including human rights, is closely related to other areas of international law. These legal disciplines are interrelated and have a variety of effects on the advancement and defense of human rights. Human rights law is closely related to international humanitarian law, which regulates how military conflicts are conducted, while human rights law is more widely applicable to all persons, regardless of the setting (Brysk, 2002). Human rights law is closely related to international criminal law, which controls the prosecution of people for transnational offences including genocide, war crimes, and crimes against humanity. The promotion of responsibility for human rights breaches and ensuring that offenders are held accountable for their conduct are shared objectives of both legal fields. Trade law may be impacted by international trade law, which regulates how trade and investment are conducted internationally. For instance, trade agreements may contain clauses that defend the environment or labor rights, which may benefit the advancement and defense of human rights but may also make it more difficult to uphold human rights, especially if they give priority to commercial interests rather than these rights.

The protection and infringement of human rights by new technologies can have both good and bad ways. On one hand, new technologies have the potential to improve the promotion and protection of human rights by expanding information access, enhancing communication, and offering fresh instruments for activity and advocacy. However, the realization of human rights may potentially face new difficulties and dangers as a result of new technology. Examples of how developing technology has improved human rights include increased access to information through the internet

and social media, new tools for advocacy and activism, and improved monitoring and reporting of abuses of human rights.

However, new developments in technology also bring forth fresh difficulties and dangers for the advancement and defense of human rights. Privacy rights can be violated by governments and other actors through the use of new technologies like face recognition and biometric data collecting, online bullying and hate speech, automation and job displacement, weaponized technologies, digital gap, threats to cyber security, disinformation and propaganda, and environmental degradation. Governments, civil society organizations, and the commercial sector must work together to develop a comprehensive and coordinated strategy to address these issues. In order to ensure that emerging technologies are created and utilized in a way that respects and protects human rights, it also necessitates a comprehensive examination of the ethical and human rights implications of those technologies.

An examination of specific instances and circumstances where human rights have been upheld or advanced can provide light on the efficacy of human rights procedures and the difficulties still facing the preservation and advancement of human rights. For example, the ongoing crisis in Syria has led to widespread human rights abuses, such as extrajudicial murders, torture, and forced disappearances. The Independent International Commission of Inquiry on Syria, established by the international community, has recorded human rights atrocities and offered actionable recommendations (Langford and Vandenhole, 2010). On the other hand, there have been instances where human rights have been advanced, such as the struggle for marriage equality in the US. The Supreme Court's 2015 declaration that same-sex couples have the right to marry was a major step forward in the defense of the rights of the LGBTQ+ community, and similar changes have since occurred in various nations across the world due to this judgment.

The fight for climate justice highlights the importance of human rights and the disproportionate impact of climate change on marginalized people. This movement has led to increased global advocacy and awareness, as well as the development of new legal frameworks and standards to address the effects of climate change on human rights.

Effective human rights campaigns and projects have significantly advanced the promotion and protection of human rights. For example, the anti-apartheid movement in South Africa, the global campaign against landmines, the fight against HIV/AIDS, the #MeToo movement, and the campaign for marriage equality have all demonstrated the effectiveness of activism and advocacy in promoting and defending human rights.

International human rights organizations and processes can also provide insights into the effectiveness of these mechanisms in promoting and defending human rights. For example, the Rohingya issue in Myanmar, where the Rohingya minority faced persecution and persecution, has been a prime example of the impact of international human rights procedures. The Convention on the Rights of the Child (CRC) has played a significant role in promoting and safeguarding children's rights worldwide, addressing issues such as child labor, trafficking, and marriage.

Conclusion

In conclusion, analyzing the effectiveness of international human rights processes and organizations in promoting and defending human rights can provide valuable insights into the challenges and opportunities for addressing complex issues.

The examination of human rights issues in international law has led to significant conclusions and insights. The adoption of the Universal Declaration of Human Rights, the establishment of the United Nations human rights institutions, and the proliferation of human rights treaties and instruments have influenced the development of international human rights law. However, there are still many obstacles to overcome before human rights can be effectively enforced, such as impunity, lack of access to justice, and restrictions on international organizations' ability to handle human rights breaches. Globalization has impacted human rights in a complicated and varied way, bringing both opportunities and challenges (Magnarella, 2008). The intersectionality of human rights and other fields of international law highlights the need for a thorough and coordinated response from governments, civil society organizations, and other stakeholders to address the numerous, intricate problems that still need to be solved.

Recommendations

The future of human rights under international law requires greater responsibility for human rights abuses, involving cooperation between governments, civil society organizations, and other stakeholders. Technology's significance is crucial as new technologies continue to alter the world, and new regulatory frameworks and standards must be created to respect and protect human rights (Wilkinson and Mesa eds., 2014). Civil society organizations play a significant role in advancing human rights, and more funding, capacity building, and support are necessary to ensure their continued fight for marginalized communities and hold governments accountable for human rights violations. The intersectionality of human rights and the importance of education and awareness-raising are also essential for promoting and defending human rights under international law.

Further research is needed to understand the effects of globalization, the efficiency of international human rights organizations, and the factors influencing their success. To conclude, we can say that more study and action are needed to promote the promotion and defense of human rights in international law, involving cooperation between governments, civil society organizations, and other stakeholders.

References

- Shelton, D. (2013). *The Oxford Handbook of International Human Rights Law* (Oxford University Press, 2013).
- Clapham, A. (2007). *Human Rights: A Very Short Introduction*, Oxford University Press.
- Lauren, P. G. ed. (1998). *The Evolution of International Human Rights: Visions Seen*, University of Pennsylvania Press.
- Coicaud, J. M. and Doyle, M. W. (2003). *The Globalization of Human Rights*, United Nations University Press.
- Mingst, K. and Snyder. J. (2014). *Human Rights: A Reference Handbook*, ABC-CLIO.
- Schutter, O. D., et al., (2010), *International Human Rights Law: Cases, Materials, Commentary*, Cambridge University Press.
- Uvin, P. (2004). *Human Rights and Development*, Routledge.
- Daniel P. L. Chong and Ayesha S. Chaudhry, (2013). *Human Rights and Global Diversity*, University of Pennsylvania Press.
- Gearty, C. (2016). *The Limits of Human Rights*, Oxford University Press.
- Krause, K. and Ponzio, R. (2011). *Human Rights and Humanitarian Diplomacy: Negotiating for Peace, Justice, and Human Rights*, Routledge publishers.
- Goodhart, M. (2013). *Human Rights: Politics and Practise*, Oxford University Press.
- Schulz, W. F. (2008). *The Future of Human Rights*, University of Pennsylvania Press.
- Vincent, A. (2010). *The Politics of Human Rights*, Oxford University Press.
- Alison Brysk, A. and Gershon Shafir, G. (2004). *Globalization and Human Rights*, the University of California Press.
- Brysk, A. ed. (2002). *Is the shrinking world expanding rights in terms of human rights?* Routledge Publishers.
- Langford, M and Vandenhole, W. (2010). *Globalization and Human Rights: Challenges and Solutions from a European Perspective*, Edward Elgar Publishing.
- Paul J. Magnarella, P. J. (2008). *The Impact of Globalization on Human Rights*, State University of New York Press.
- Wilkinson, R. and Mesa, M. eds. (2014). *The Handbook of Human Rights and Globalization*, Edward Elgar Publishing.