



Attorneys at Law

Consortium Standards Bulletin

A ConsortiumInfo.org publication

SEPTEMBER 2006

Vol V, No. 8

FEATURE ARTICLE

HUMAN RIGHTS AND THE STRUCTURES THAT SEEK TO PROTECT THEM

Andrew Updegrave

Abstract: *Since the Second World War, an increasingly precisely defined and extensive list of individual, and in some cases group, entitlements has been codified that are referred to as "human rights." Under a variety of global and regional treaties and conventions, the governments of signatory nations accept a duty to observe and protect these same rights, as well as the proposition that some degree of international oversight and action is appropriate to safeguard their own citizens from abuse of these rights, and to protect the citizens of other nations from signatory actions. That oversight is provided under an expanding multi-layered, overlapping infrastructure of global and regional commissions, institutions and courts that are still largely supplemental to, rather than empowered to supersede the domestic laws and legal structures of member states. A variety of non-governmental organizations also play an important "watchdog," role by exposing human rights abuses, and applying public pressure upon governments capable of curtailing such abuses. This article provides an overview of the types of human rights that are internationally recognized today, the treaties and conventions that acknowledge them, and the structures that are evolving to protect them.*

Introduction: As the world struggled to recover from the impact of two world wars waged over a brief thirty-year period, the urgent need to remake international law to prevent future conflicts was evident as never before. Numerous initiatives were launched in consequence that were intended to make the world a better and safer place in which to live for all of its peoples. Initially, most of these initiatives were launched under the auspices of the new United Nations, which was chartered in 1945.

Intrinsic in much of the work of the United Nations was the recognition that its broad goals could not be attained without first achieving consensus on the parameters of basic human rights, and then codifying and protecting those rights. Absent such a foundation to inform more specific efforts, the likelihood of creating a better world might be doomed from the start.

Seventy-one years after the last shots of World War II were fired, the record and results of these high-minded initiatives are at best mixed. Rarely has there been a year when one or more wars have not been in progress, and invariably there have been ongoing, and too-often egregious, violations of human rights in multiple countries around the globe. While collective action has sometimes led to the imposition of sanctions or direct intervention to stem or halt such human rights abuses, these efforts have never been consistently applied across equally compelling circumstances, and when action has been taken, it has typically commenced only after a long and protracted effort to reach consensus on the right to act and the method to employ, and to gather a sufficient number of nations willing to participate in order to make the effort effective.

As a result, human rights violations have been continuous, and even horrific episodes of genocide have been all too frequent. The worst abuses have often occurred in Africa, but Europe, where memories of the events of World War II remain fresh, witnessed the disintegration of the former Yugoslavia and the occurrence of human rights abuses that Europeans hoped would never be seen on that continent again. Millions have died around the world in consequence, and many more continue to lead blighted lives of poverty, fear and disease, particularly where corrupt elites are in power.

Nor have allegations of human rights violations been made only against third world nations or rogue Balkan leaders. Western nations still accuse China of violating the human rights of its citizens, and the United States has been accused not only by foreign critics, but by its own concerned citizens as well, of violating the human rights of captives taken in Afghanistan and Iraq.

It would be easy to conclude that the challenge of achieving a worldwide guarantee of human rights is simply the classic one of national sovereignty refusing to cede any real power to collective action. And in fact this is part of the problem, as the United Nations was not created with the power to make laws that it can directly enforce against its own member states.

Notwithstanding the fact that initial post-war hopes have not been fully realized, substantial (if inconsistent) progress has been made in the effort to secure human rights. Today, there is much to point to that gives hope for the future, including the ratification of numerous treaties recognizing and protecting human rights of all types, the formation of regional bodies able to protect human rights, a growing body of international law to support the efforts of individuals as well as intervening nations in the defense of human rights, and perhaps most importantly, an increasingly consistent global consensus regarding the nature and description of specific human rights - in effect, the standards by which human rights can be recognized, and thereby uniformly protected.

While not strictly speaking "standards" in the usual sense, human rights are nonetheless very similar in concept and creation to other useful products of voluntary, consensus processes: they are abstractions that have useful meaning only when a community of interest agrees to define them and apply them; they become more powerful and useful when uniformly adopted internationally; such adoption is voluntary; they achieve important societal goals; and they are maintained by institutions created specifically for that purpose. As a result of these similarities, it can be instructive to view human rights in the context of standards generally, particularly as regards what may be learned from the successes (and failures) of those active in the development, promotion and use of each type of consensus-based end product, and how the experiences of one discipline may benefit the other.

This article will survey the types of rights that are recognized today, the treaties and authorities under which they exist, and the principal means by which they are protected. In closing, it will reflect on the adequacy of this infrastructure to achieve its intended purpose.

I. Recognized Human Rights

The primary role of any government is (or should be) to protect the security and welfare of its citizens. Unfortunately, that role has rarely, if ever, been perfectly achieved by real-world governments.¹ This evident and ongoing failure gives rise to a need for international agreement on the identity and description of those rights that every government may be expected to respect, in order to provide a standard against which a government's actual behavior may be measured.

Human rights categories: Human rights are comparatively easy to agree upon at the original natural law level of abstraction.² Concepts such as the right to be "free" and "secure in one's person" are hard to contest, and are otherwise consistent with democratic values and the general understanding of the obligations of a government to protect its citizens. But in the first instance, what does "free" mean? And in the second, are there situations in which infringements should be permitted to even such a basic human right?

¹ In the opinion of Amnesty International, among 155 nations surveyed, only the Netherlands, Norway, Denmark, Iceland and Costa Rica did not significantly violate human rights in 2003. The report [may be accessed](http://web.amnesty.org/report2004/index-eng/) at < <http://web.amnesty.org/report2004/index-eng/>> Unless otherwise noted, all Webpages to which links are supplied in this article were accessed on September 27-29, 2006.

² Because human rights are now recognized legally in many forms and venues, this article does not address the philosophical bases upon which the recognition of something called "human rights" was based. These foundations remain of more than theoretical significance, however, because they continue to inform (consciously or otherwise) how we decide what particular rights to recognize, the relative values to be placed on each, and the degree to which infringements, if any, of such rights should be tolerated under exceptional circumstances.

For example, does "free" mean both physically as well as politically free? If both, then is incarceration consistent with the concept of human rights, and if so, to what extent? At what point does duration of incarceration for a given crime become excessive, and what obligations does the state have to protect the prisoner from abuse once under the control of his jailers?

Distinguishing rights from honorable aspirations is also challenging. Is equal employment opportunity an elective concept that a given country is free to enshrine in law, or a basic human liberty that every country should guarantee? Perhaps surprisingly, general agreement on almost all currently identified categories of human rights (if not consensus on each specific right) was achieved and codified in the Universal Declaration. Those categories can be generally identified as follows:³

- **Security rights:** These are the rights that respect the right of the individual to be secure against physical abuse, and address dangers such as murder, torture and rape. Unlike many of the rights that follow, these rights have been addressed by laws from ancient times.
- **Due process rights:** These rights protect the individual from the abuse of the powers of the state, and prohibit practices such as secret trials, imprisonment without being charged, and unreasonable punishment.
- **Liberty rights:** These rights acknowledge freedoms of movement, speech, association, religious belief, and the like.
- **Political rights:** These address the right of the individual to meaningfully participate in the political process by voting, advocating and assembling, and to run for elective office.
- **Equality rights:** These are the rights that recognize equality before the law, nondiscrimination, and similar freedoms.
- **Social (or "welfare") rights:** These rights do not protect the individual from the state, but recognize duties of the state to its citizens to ameliorate suffering from (for example) extreme poverty and hunger.
- **Group rights:** This conceptual category is not represented directly in the Universal Declaration, but is achieving attention today. Group rights address abuses that may be directed at ethnic or religious groups (e.g., genocide), and the rights of countries to be protected from foreign exploitation of their resources.

Individual human rights: Individual human rights present their own challenges of definition and reasonability of expectation. One challenge resulting from recognizing so many different desirable goals as actual rights is the evident impossibility of guaranteeing equal access to all of them. For example, few nations in Africa (or, perhaps, anywhere) today could guarantee full social rights to their citizens, if this would require a government to feed, clothe, employ, educate and provide modern health care to everyone of its people. In contrast, it would be reasonable, and indeed imperative, to expect every nation, regardless of economic situation, to ensure almost all of the other rights referred to above.

Achieving uniformity of definition and application of human rights at the national level can also be problematic: some rights necessarily include subjective elements (how much punishment for a given crime, and of what type, is consistent with human rights?), and others may have local cultural or religious connotations (must all punishments provided for under *Sharia* law – such as amputation of the hand or foot of an incorrigible thief - by definition be consistent with human rights? If not, does this imply that international law has the right to overrule the laws laid down by the Prophet?).

³ The specific formulation of categories above is derived from the excellent and very lengthy entry on Human Rights to be found in the Stanford Encyclopedia of Philosophy, which [can be found](http://plato.stanford.edu/entries/rights-human/) at <http://plato.stanford.edu/entries/rights-human/>. I am indebted to the authors of this summary for much of the information contained in this article. Betsy Lamm, Thomas Pogge, M.B.E. Smith and Douglas Sylvester are identified as the most recent authors and editors of the material contained in this entry.

Variations (justifiable or otherwise) can be addressed through the establishment of regional rights bodies, and others through the adoption of human rights treaties by individual national governments with "reservations" (i.e., the reserved right to take exception to specific provisions of the treaty that would otherwise be binding). Variations are also guaranteed by the fact that parties to treaties are usually required to make their internal laws consistent with treaties, rather than to adopt the type of specific, mandatory language that could provide more uniform protection of human rights on a global basis.

Even where there is little difference of opinion over the importance of given rights, situations may justifiably (or expediently) permit the playing off of one right against another, as when martial law is imposed by a government under claim of protecting the security of the people. Such an action ostensibly honors the obligation of the state to protect the physical well being of its citizens, but may do so at the expense of political and other valuable rights.

Notwithstanding such questions of rights interpretation and relativity, treaties sometimes recognize that some types of rights are more fundamental than others, and therefore must be more strictly protected. For example, the International Covenant on Civil and Political Rights allows certain rights to be suspended under extreme circumstances (during a time "of public emergency which threatens the life of the nation" (article 4)). However, this right of suspension does not permit taking life, engaging in torture, imposing slavery, conviction under laws adopted after the fact, or the suspension of freedom of religion or thought.⁴

II. The Human Rights Infrastructure

International

Although the global divisiveness brought about by the Cold War temporarily slowed human rights progress, the infrastructure of human rights recognition and enforcement has nonetheless grown substantially from its post-war beginnings. This ongoing progress involves the continuing adoption of new treaties, increasing recognition of the authority of rights recognized under older treaties, and the creation of new authorities and organizations charged with protecting human rights. Today, there is a complex and growing global infrastructure that seeks to identify, legislate, and protect human rights, comprising courts, commissions, regional rights organizations, non-governmental watchdogs, and more. While the failures of this infrastructure are all too evident in a given case, the forward march of progress becomes more meaningful and encouraging when the long view is taken.

The United Nations:⁵ The fundamental role of human rights in the mission of the United Nations is recognized in its Preamble, which directs it "... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small..." Although it cannot create and enforce laws as such, the United Nations does serve as the venue within which treaties and conventions are negotiated that, when ratified by any given member state, usually obligate that state to pass and enforce internal laws that are consistent with that treaty. The United Nations also supports commissions and committees, among other activities that support the effectiveness of these treaties once they have entered into force.⁶

Treaties and conventions: Many of the most important human rights treaties in force today have been developed within the United Nations structure, and these treaties also often act as the reference points for regionally adopted treaties as well. They include the following:

- [Convention on the Prevention and Punishment of the Crime of Genocide](#) (1948): Not surprisingly, the Genocide Convention was the earliest human rights treaty finalized after the

⁴ This example is taken from Human Rights, Stanford Encyclopedia of Philosophy, *supra*.

⁵ The United Nations was not the first global body to address human rights issues. The short-lived League of Nations sought to address minority populations through protective treaties, and the first Geneva Conventions, *infra*, were adopted more than eighty years before.

⁶ The United Nations has a detailed and information section of its Website dedicated to the subject of human rights and its activities in that area, with the following [home page](http://www.un.org/rights/): < http://www.un.org/rights/>.

Second World War. It was approved one day before the Universal Declaration was itself adopted.

- [Universal Declaration of Human Rights](#) (1948): Although not itself binding on all nations, most of the standards recommended by the Universal Declaration, most of the rights and principles codified in the Universal Declaration were subsequently incorporated into other treaties that were ratified by large numbers of member states. These treaties in turn require signatory nations to enact legislation that brings their internal laws into compliance with these individual treaties. The conventions and treaties that accomplish this result include those listed below.
- [International Convention on the Elimination of All forms of Racial Discrimination](#) (1965/1969)⁷
- [International Convention on the Elimination of All forms of Discrimination Against women](#) (1979/1981)
- [Convention on the Rights of the Child](#) (1989/1990)
- [International Covenant on Civil and Political Rights](#) (1966/1976)
- [International Covenant on Economic, Social and Cultural Rights](#) (1966/1976)
- [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (1984/1987)⁸: Under Article 1 of this treaty, torture is defined as:

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Several other provisions are relevant to the current debate in the United States Congress, including the following:

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable,

⁷ Dates in parentheses indicate (Date of adoption by the United Nations or other relevant body/Date of entry into force, upon acquiring the required number of ratifications)

⁸ As of this writing, 114 nations have ratified this treaty, some with reservations. A list of these nations and an enumeration of all reservations may be found at [this Webpage](http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty14.asp#N2):
<<http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty14.asp#N2>>

the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

A [Committee Against Torture](#) was chartered by the United Nations, with the mission of monitoring and investigating compliance by signatory nations. The Committee may also initiate investigations and issue complaints against individual nations or groups of nations.

Signatory nations are required to report on a regular basis on their compliance with applicable provisions under many of the treaties described above.⁹

Administration: The human rights activities of the United Nations and the treaties and conventions approved by it in this area are supported by a variety of distinct groups of various types.

Commissions and Committees: There are two human-rights related commissions (the [Commission on Human Rights](#) (1946) and the [Subcommission on the Promotion and Protection of Human Rights](#) (1946)) and seven standing committees ([Committee against Torture](#), [Committee on Economic, Social and Cultural Rights](#), [Committee on the Elimination of Discrimination against Women](#), [Committee on the Elimination of Racial Discrimination](#), [Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families](#), [Committee on the Rights of the Child](#), [Human Rights Committee](#)).¹⁰

It is important to note the distinction between United Nations Commissions and Committees. The former derive their authority from the Charter of the United Nations itself, and therefore address all member states. The standing committees in contrast have been formed to address the subjects of the specific treaties to which they relate, and the authority of a committee therefore extends only to the member states that have ratified the treaty or convention in question. As a result, actions relating to commissions are subject to full United Nations member voting, while each of the latter are controlled by the consensus of the relevant signatory nations.

Agencies and Courts: In addition to the two treaty-independent human rights commissions, the United Nations also supports a number of agencies and courts that concern themselves with human rights issues and abuses. They include:

- [United Nations High Commissioner for Human Rights](#) (1993): This post was created to provide a full-time advocate of human rights issues within the United Nations itself. The Commissioner also coordinates all activities under existing and contemplated human rights treaties.
- [Human Rights Council](#) (2006): This Council succeeded to the work of the former Human Rights Commission in dealing with egregious violations of human rights. The new 47 member council is structured and subject to rules that are intended to make it less political than its predecessor, and less likely to include representatives of states with poor human rights records.

⁹ Additional United Nations sponsored (and other) treaties relating to human rights [may be found](#) at <<http://fletcher.tufts.edu/multi/humanRights.html>>

¹⁰ The Human Rights Research Guide section of the United Nations site provides brief descriptions of each of its human rights commissions and committees, links to the independent Webpage of each committee, and to many other relevant UN resources and topics: [Human Rights Research Guide](#) at <<http://www.un.org/Depts/dhl/resguide/spechr.htm>> (English text)

- **Security Council:** Ultimately, the Security Council can, and sometimes does, act to address human rights situations and crises by authorizing extraordinary actions, such as sanctions, the organization of peacekeeping missions, and on occasion, military intervention.

International Criminal Court: The [International Criminal Court](#) came into existence as a result of an initiative that came to fruition at the [United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court](#). At that conference, the [Rome Statute of the International Criminal Court](#) was approved, calling for the establishment of the International Criminal Court as a permanent international tribunal, modeled on the several tribunals that had been created in the past to address specific egregious human rights abuses (the Nuremberg Tribunal, International Tribunal for the Former Yugoslavia, and the International Criminal Tribunal for Rwanda). The Court came into being in 2002 upon ratification of the Rome Statute by the requisite sixty nations, and was installed at The Hague. As of January, 2006, [100 nations](#) have ratified the Rome Statute.¹¹

Like its predecessor tribunals, the International Criminal Court is authorized to address the crimes of genocide, war crimes, and crimes against humanity. Under the Rome Statute, it is also nominally authorized to address the crime of waging war illegally ("aggression against another state"), but only after that crime has been defined and related conditions are formalized and approved. The Court operates under two adopted documents: the [Rules of Procedure and Evidence](#) and the [Elements of Crimes](#), each of which was adopted by the [Assembly of States Parties](#), which oversees the Court. A third document, the [Regulations of the Court](#), was adopted by the judges of the court, completing the authority for the jurisdiction, function and structure of the Court.

The International Criminal Court is supplementary to, rather than senior to, the courts of its signatory states, in that it is unable to intervene if the nation in question has a valid judicial procedure in process to address the same alleged abuse.

Under the Statute, an Office of the Prosecutor was established, empowered to receive complaints, investigate and prosecute. With the establishment of this permanent tribunal, the threat of possible consequences for egregious actions taken under authority of a state, with the complicity of a state, or that might otherwise be ignored by the government of a state, became more credible.

Geneva Conventions: The Geneva Conventions comprise four treaties and three amendment protocols with a venerable heritage that precedes the foundation of the United Nations by more than eighty years. The first Geneva Convention was adopted in 1864 by sixteen European nations at a conference convened by the Geneva Society for Public Welfare (which later became the International Committee of the Red Cross), and the last was adopted in 1949. The two substantive protocols (the third relates to the adoption of an emblem) were both approved in 1977.

The [first](#) of the four Geneva conventions addresses the rights and needs of sick and wounded combatants on the field, and the [second](#) of the sick and wounded at sea; the [third](#) addresses the humane treatment of [prisoners of war](#); and the [last](#) the protection of civilians "in Times of War." The [first](#) and [second](#) of the two substantive protocols relate to the protection of victims of armed international conflicts and of non-international conflicts, respectively. The four conventions had been ratified by 194 of the world's 200 countries as of June 27, 2006.

Other conventions and treaties: There are a variety of other conventions and treaties that could be included under the general heading of human rights. These agreements address additional areas of concern, such as the rights of refugees, the outlawing of [landmines](#), and other concerns.

International Law

¹¹ The United States is notable for its absence as a Party to the Rome Statute. The United States remains theoretically subject to action by the Security Council of the United Nations with respect to actions that might otherwise fall under the jurisdiction of the International Criminal Court, but as a permanent member of that Council could veto any resolution intended to address any crimes that it was alleged to have committed.

A growing body of law is emerging as a result of the various treaties, conventions, complaints, interventions and other activities taken in support of human rights. As this body of law grows, it becomes more persuasive, influential and useful by all of those active in the protection of human rights.

Various efforts are in process to support the compilation and institutionalization of international law. One such effort that focuses on human rights is the [International Humanitarian Law Research Initiative](#), which advances the so-called "Alabama Process" (named after the room in the City of Geneva in which the first Geneva Convention was adopted in 1864).

Regional

The United Nations (and particularly its Universal Declaration of Human Rights) remains in many respects the fountainhead of the modern human rights infrastructure. However, it is neither the only, nor, in a given case, necessarily the most effective body to secure a given goal. At times, a regional authority has led, rather than followed, the United Nations in its recognition and protection of human rights, and the nations of Europe are notable for the degree of authority that they have ceded to their regional human rights institutions.

There are currently three principal regional authorities that address human rights issues, each of which has adopted its own declarations, rules, and sometimes courts to address human rights issues.¹²

Europe: The initial treaty respecting human rights adopted in Europe is the [Convention for the Protection of Human Rights](#) (1950), a significant document in that it was the first agreement under which signatory states consented to enforcement of domestic human rights by an external body. With the expansion of the European Union, the number of states that are members of this convention has rapidly expanded. As of this writing, 45 Western, Central and Eastern European states are members. Social rights are covered under a separate treaty, the [European Social Charter](#) (1961).

Under the Convention, member states consent to a significant degree of external authority, including subjecting themselves to the jurisdiction of a standing (since 1998) human rights court: the European Court of Human Rights, which presides in Strasbourg, France. Individuals, and less frequently nations, bring complaints to this court, which first attempts to mediate a resolution. Failing such a resolution, the court has the authority to issue a judgment and require appropriate remedies.

Pan-America: The Organization of American States came into being with the execution of the [OAS Charter](#) in 1948 by 21 original member states; 35 countries in the western hemisphere are now members. All members are signatory to two relevant documents: the [American Declaration of the Rights and Duties of Man](#) (1948) and the [American Convention on Human Rights](#). Although this declaration was adopted prior to the Universal Declaration, the Convention, which legally enabled the rights and duties identified in the declaration, was not adopted until 1969, and did not take effect until 1978. Unlike the Universal Declaration, the American Convention recognizes duties (such as the duties to work and pay taxes) of individuals as well as rights. A third treaty, the [Protocol of San Salvador](#) (1988), address social rights.

The rights recognized under these two documents are addressed by two permanent bodies:

- [Inter-American Commission on Human Rights](#) (1959): the Commission is empowered to investigate and report on human rights abuses, but is not authorized to apply sanctions or remedies. However, the Commission has been extremely active in investigating many hundreds of cases alleging individual violations of human rights.
- [Inter-American Court of Human Rights](#) (1979): The Court was established under authority of the Statute of the Inter-American Court of Human Rights, has authority to hear cases submitted by the Inter-American Commission on Human Rights and by member states, and is empowered to apply the provisions of the American Convention on Human Rights to the facts presented.

¹² The League of Arab States adopted the [Arab Charter of Human Rights](#) in 1994. However, this Charter has not yet been ratified by the member states of the League, and therefore has not entered into force.

Africa: The [African Union](#) replaced the Organization of African Unity in 2000. The underlying [African Charter of Human and Peoples' Rights](#) (1981) had been ratified by 53 nations as of 2006. Like the American Declaration, the African Charter recognizes duties of individuals. It also recognizes group rights, including some of particular historical significance, such as the right to be free of foreign political domination, and the right to protect domestic natural resources from foreign exploitation. An [African Court of Human and Peoples' Rights](#) was established under a protocol adopted in 1998 which took effect in 2004 upon its approval by 15 member states. However, as of this writing, the court has not yet been established.¹³

Individual Government Action

Individual countries from time to time include the curtailment of international human rights abuses in their foreign policy goals. Since such activities are self-determined rather than obligatory under treaties, however, such goals may change over time (and particularly as administrations change), may focus on some human rights over others, and the country in question remains free to turn a blind eye to the abuses of particular countries that would be diplomatically inconvenient to offend at any particular point in time.

International human rights practices can also be incorporated into legislation, thereby seeking to regularize such practices. For example, in the United States, sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended, and section 504 of the Trade Act of 1974, as amended require the Secretary of State to supply to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by February 25 in each year:

[A] full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that receive assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act.¹⁴

Non-Governmental Organizations

National, global and regional Non-governmental organizations (often referred to simply as "NGOs") play an important "watchdog" function, providing multiple points of contact for individuals and groups that have suffered from human rights abuses. These organizations investigate and raise public awareness of such conditions, and the more powerful NGOs that focus on human rights issues can bring significant public pressure on governments by bringing failures to act, as well as actual abuses, to world attention.

The breadth of approach and scope of NGOs concerned with human rights issues is suggested by the following brief summaries of a few well-known NGOs:

- **Oxfam International:** Oxfam's mission currently focuses on six areas of human rights and advancement. It has given simple names to these rights that in effect constitute Oxfam's own high-level Declaration of Human Rights, as in, "Every individual has the right to be [secure](#) [have access to adequate resources], [skilled](#) [have access to educational opportunity], [equal](#) [including with reference to gender, disability and culture], [healthy](#), [heard](#) [to have effective political representation], and [safe](#). Oxfam undertakes a broad variety of local actions in each of these areas to ameliorate the quality of life of those affected, seeking to directly aid those affected. It also focuses international attention on human rights needs.¹⁵
- **Amnesty International (AI):** AI describes itself as "a worldwide movement of people who campaign for internationally recognized human rights." AI uses the Universal Declaration and other treaties as its reference points, and focuses on "preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights." As of this writing, AI counts more than 18 million members, supporters and subscribers in over 150 countries and

¹³ [Project on International Courts and Tribunals](#), at <<http://www.pict-pcti.org/courts/ACHPR.html>>.

¹⁴ The most recent such [report](#) (for 2005) may be found at:
< <http://www.state.gov/g/drl/rls/hrrpt/2005/index.htm>>

¹⁵ [Oxfam Website](#), at < http://www.oxfam.org.uk/about_us/thisisoxfam/index.htm>

territories in every region of the world. AI is self-described as "a democratic, self-governing movement," which places significant policy decisions before an International Council, which representatives from its national sections attend.¹⁶

- [Human Rights Watch](#) (HRW): HRW currently has 150 employees (lawyers, journalists, academics, and country experts) and many volunteers, and describes its approach to human rights issues as follows: "Human Rights Watch believes that international standards of human rights apply to all people equally, and that sharp vigilance and timely protest can prevent the tragedies of the twentieth century from recurring." HRW researches and publishes the results of its investigations with the outright goal of generating publicity intended to "embarrass abusive governments in the eyes of their citizens and the world....In extreme circumstances, Human Rights Watch presses for the withdrawal of military and economic support from governments that egregiously violate the rights of their people." HRW also takes to the field during human rights crises, delivering real-time accounts of abuses in process in order to raise awareness and bring international attention, and hopefully action, to bear.¹⁷

III. Summary

Since the end of the Second World War an increasingly comprehensive infrastructure for the identification and protection of human rights has developed around the world, comprising overlapping global, regional, national, and private means for protecting the rights of not only individuals, but to classes and groups of people identified by criteria such as ethnicity, disability and gender.

Today, this infrastructure is still largely lacks sufficient power and authority to intervene in the domestic affairs of individual nations. However, there is a trend that is flowing in this direction, as evidenced by the establishment of standing courts and tribunals specifically created to address the most severe of human rights abuses, consensus on the identification and description of specific human rights, and a growing body of international law based upon the actions of the various treaty groups and other bodies addressing human rights. Nonetheless, this infrastructure is still almost entirely supplemental, rather than senior to, the sovereign rights of nations.

It remains to be seen whether the further evolution of this infrastructure will slow and stall at the boundary of states rights, or will serve as the foundation upon which a more powerful, global legal system focused on realizing the goals of the Universal Declaration of Human Rights is built. Today, there does not appear to be sufficient momentum or global outcry to compel the nations of the world to surrender the degree of domestic control needed to achieve the latter.

Hopefully, if this impasse is some day broken, it will not be as a result of human rights abuses that are even more extreme and horrific than those that have occurred so recently in Kosovo, Rwanda, Uganda, Liberia, Darfur, and elsewhere.

Comments? updegrove@consortiuminfo.org

Copyright 2006 Andrew Updegrove

¹⁶ [Amnesty International Website](http://web.amnesty.org/pages/aboutai-index-eng), at < <http://web.amnesty.org/pages/aboutai-index-eng>>

¹⁷ [Human Rights Watch Website](http://www.hrw.org/about/whoweare.html), at < <http://www.hrw.org/about/whoweare.html>>

