



## International Journal of Law, Policy and Social Review

www.lawjournals.net

Online ISSN: 2664-6838; Print ISSN: 2664-682X; Impact Factor: RJIF 5.42

Received: 26-02-2020; Accepted: 28-03-2020; Published: 20-06-2020

Volume 2; Issue 1; 2020; Page No. 37-39

---

### International judicial protection of human rights

**Ahmed Abdelaziem Mahmoud**

Assistant Lecturer, Faculty of Law and Politics, Assiut University, Assiut, Egypt

---

#### Abstract

Universal jurisdiction, an essential tool of international justice, is the ability of any State's court to try persons for crimes committed outside its territory which are not linked to the State by the nationality of the suspect or the victims or which harm the national interests of the State itself.

The 1969 Vienna Convention on the Law of Treaties allowed States to resort to the International Court of Justice in respect of disputes arising in connection with legal and judicial matters relating to violations of human rights.

The research discusses the role and activity of international justice in the protection of human rights, taking into account the role of the International Court of Justice as the most important universal judicial body, as well as the international human rights law opinion on such violations and how to address them.

**Keywords:** justice, international jurisdiction, human rights, armed conflicts, international court of justice, vienna conventions, international law, international humanitarian law etc.

---

#### Introduction

At the beginning of the eighteenth century, it had to be stopped against all violations of human rights in various forms and types. Philosophers and Elders have played the key role in such demands that the concept of international relations should be reconsidered and other types of international cooperation should be identified as an alternative or an addition to international custom.

Many of the efforts to develop the concept of international cooperation have culminated in the four Hague Conventions and two Additional Protocols, many of the prevailing concepts of change such as the culture of war as a means of resolving conflicts and finding more peaceful ways to resolve disputes. The first concrete initiatives to bring together opinions and resolutions - the League of Nations, which unfortunately did not hold up much at the beginning of the First World War - were not even broadcast. After the end of the first World War and with the effects of the League of Nations idea still on the ground, the United Nations has again come to light, but with a new Charter and with stronger arms and control over the Member States in terms of compliance with international and other norms and treaties. Perhaps colonial ideas and the illusion of control over the world have not yet ended! The horrors and effects of war in various forms and the most abominable images of human rights violations have not already ended, and we will, therefore, consider both the role of the international justice system represented in both the International Court of Justice and the International Criminal Court and their respective roles in the protection of human rights at the international level. The beginnings of the idea of international justice began to appear gradually in the Middle Ages, as the Pope became increasingly resorting to arbitration among States in international disputes, and here another type of litigation and arbitration started. It has evolved

Slightly into the emergence of committees of arbitrariness, arbitrators and other means of adjudicating international disputes. Arbitration has been the starting point of international justice from its ancient concept of church and arbitration to the independent, more binding and credible international tribunals for both parties.

With increased awareness of the dangers of war and its impact on the economies of States, the idea of resolving conflict by war is gradually receding and, consequently, resorting to international arbitration and international justice is gradually evolving to increase its dependence, at the beginning of 1899, this trend toward development of the International Peace Conference in The Hague. It was agreed that a permanent court of international justice should be established to ensure a greater form of international compliance with the decisions of the Court, of course, under the League of Nations, which was followed by numerous instruments and conventions aimed at closer international relations in a way that would demonstrate a more conscious international community in the preservation of human rights. To a certain extent, the League of Nations has been able to lay the foundations for a permanent court to adjudicate disputes between States, but as we have stated, the First World War quickly broke out and brought to an end the newly emerging Court. After the end of the Second World War, the United Nations came to light and agreed once again to establish the International Court of Justice with more stable roots and with more capable systems to overcome international difficulties and crises in a way that kept pace with international developments in various aspects of political and economic life. We are now addressing in more detail the role of both Tribunals in establishing the norms of international justice and their role in the protection of human rights through the application of the precepts of international human rights and humanitarian law.

### The objectives and purpose of research

The importance and objectives of the research lie in highlighting the universal international justice system of both the International Court of Justice and the International Criminal Court and their respective roles in protecting human rights through the application of the norms of international human rights and humanitarian law. While considering the position that the judgments of the international courts are contrary to the provisions of the State against which they are executed from the perspective of the concept of State sovereignty.

### Research methodology

The research here is based on the analytical approach of this study, taking into account certain international rules and laws, comparing them with current realities and considering the various examples of human rights violations, as well as the mandatory nature of various international judicial decisions.

### International justice and its legal basis

The main objective of international justice is to defend human rights in an original way, meaning that the message of international and domestic justice is to defend rights. The League Council decided soon, in accordance with article 14 of the League's era, to establish a legislative committee to prepare a draft permanent court for international justice, after approving the draft, a set of amendments was agreed to be finalized, to provide for the final text of 16 December 1920, thus establishing the permanent court of international justice. But it did not last long because of World War I, despite its independence from the League of Nations.

But after World War I, the foundation stone of the United Nations was laid at the San Francisco Conference in 1945, so that it not only agreed on the final version of the United Nations but also recognized that the International Court of Justice must be a principal organ of the United Nations.

To study the legal basis of international justice, it must be Close consultation on the legal basis of the following four international tribunals:

#### ▪ Legal basis of the International Court of Arbitration

1. Article 37 of the first Geneva Agreement of 18 October 1907 on the resolution of international disputes stipulates that "international arbitration shall aim at the settlement of disputes arising between States by judges chosen on the basis of respect for the right".
2. Article 16 of the Hague Convention of 1899 also states that "in matters of a legal nature, questions of interpretation or application of international conventions, the signatory authorities determine that arbitration is the most effective means, and at the same time the most fair means of settling disputes that have not been settled by diplomatic means.
3. The General Charter of Arbitration of 1928, which provided that political disputes should be subject to arbitration, was unfortunately not applied in practice.

#### ▪ The legal basis of the court of Justice

1. "The International Court of Justice is an essential part of the United Nations and the judicial arm of the Organization", as stipulated in

2. Article 92 of the Charter of the United Nations, and its Statute is not part of the statute of the United Nations. The existence of the International Court of Justice also serves as a stabilizing body of the international judicial system by agreeing on the relevance and commitment of its judgments.
3. The organization's acquisition of moral personality results from the basis of the law underlying its creation... The obligation of States to the Charter of the United Nations and its signatory from most countries obliges States to respect the judicial decisions of the International Court of Justice not only that, but also sanctions against States in violation of judicial provisions, as set out in Article 94, paragraph 2, of the Charter of the United Nations.

#### ▪ The Legal basis of the International Tribunal for the Law of the Sea

The International Tribunal for the Law of the Sea is an independent judicial organ, which deals with all matters relating to the sea and the oceans and all their related matters, so that it has jurisdiction under the Convention signed by all participating States and considers its decisions binding on all parties.

It should also be noted that the International Court of Justice was competent to review all disputes of all kinds before the allocation of types of disputes.

### Human rights and various violations

It starts with the admission that everyone has the right to claim his fundamental rights, which are purely prejudicial to his own development, and that the right to life is perhaps the first rights that human beings must enjoy since his birth. In other words, no one can be deprived of this right. But to understand what human rights are, first, we must know the basic criteria for ensuring the dignity of the individual, perhaps in terms of understanding that all human beings are equal in terms of humanity and rights, which is what we need to be prima factually involved in the concept of human rights.

But the world's reality and history stories show an entirely non-understanding of human rights, as there is no limit to the amount of violations that human rights may be subjected to since the beginning of the circulation of human rights and their advocacy, based on the movements of human rights and the emergence of international bodies that are primarily helping to develop human rights. International justice was represented in the era of the League of Nations, later in the United Nations era, and many other judicial organs.

To stop it with various world events against human rights violations.

We will, in turn, mention the various violations against the human person and the position of the international judiciary, to clarify the role of international justice in the protection of human rights.

### First: Manifestations of human rights violations

#### ▪ Intimidation and terrorism

That one of the most serious manifestations of human rights violations, such as intimidation and terrorism, urges that terrorism play an important role in the violation of human rights, which it causes international instability and its negative impact on life in all its aspects. On the other side of human rights, terrorism adversely affects their personal right to a fair trial or even to a more human treatment during the prison term.

### ▪ Wars and massacres...

Perhaps it was my own point that this example was the most dangerous and ancient in human history, perhaps a turn for negotiation one day, or a way to pressure humans in the early ages, one method and one way to death and end. War may have different forms of times... From the aggression of the strongest against the weakest in a little bit, then to a more organized form in the form of armies, and the attacks on the human race were described. Especially the Black race on the African continent, there has been many racial and extremist ideas from the White race so far, and there are some violations against human rights on the African continent and elsewhere.

### **Role of the international judiciary in the protection of human rights**

There should have been no more dislike distinction in extreme minds than the nature on which we created it, and domestic and international norms, laws and signatures that limit and totally stop the scourge of war have emerged. The Universal Declaration of the Charter of Human Rights, which has been endorsed by most of the world's States to date, has also emerged.

As for the role of international justice in the protection of human rights, the judiciary in general derives its strength and legitimacy from agreed international laws and treaties, and the laws that suit our article are international human rights law. International law defending human rights is based on the four Geneva Conventions of 1949 and the 1977 Protocols relating to international and non-international armed conflict.

The United Nations has established the obligations of States signatories to the conventions and laws that make them bound by international law:

The Universal Declaration of Human Rights - International Covenant on Economic, Social and Cultural Rights - International Covenant on Civil and political Rights and its first Optional Protocol.

### **Conclusion**

Human rights are an integral part of the human being, in this article we have elaborated on some brief concept of international justice and the United Nations organs that are arms for the implementation of international law resolutions and for the monitoring of the implementation of international judicial decisions. We then moved to examine the relationship between international justice and the protection of human rights. Of course, the world is now rid of the old and bloodiest habits of conflict resolution by legislating many international agreements and binding laws for all signatories to make the world a safer place. Despite many violations occurring in many parts of the world such as Palestine, Syria, Burma, and many other international events.

### **References**

1. (Falk, 1958; Gilmore, 1945; Hudson, 1957; Owen, 1968; Reydams, 2003; Sadat, 2005; Schabas, 2013; Spiermann, 2005; Zacklin, Guggenheim, & Schermers, 1968.
2. Falk RA. International Jurisdiction: Horizontal and Vertical Conceptions of Legal Order. *Temp. LQ.* 1958; 32:295.
3. Gilmore G. The international court of justice. *Yale LJ.* 1945; 55:1049.

4. Hudson MO. The Succession of the International Court of Justice to the Permanent Court of International Justice. *American Journal of International Law.* 1957; 51(3):569-573.
5. Owen HJ. Compulsory Jurisdiction of the International Court of Justice: A Study of its Acceptance by Nations. *Ga. L. Rev.* 1968; 3:704.
6. Reydams L. *Universal jurisdiction*: Oxford University Press.
7. Sadat LN. Exile, amnesty and international law. *Notre Dame L. Rev.* 2005; 81:955.
8. Schabas WA. The banality of international justice. *Journal of International Criminal Justice.* 2013; 11(3):545-551.
9. Spiermann O. *International legal argument in the permanent Court of International Justice: the rise of the international judiciary*: Cambridge University Press, 2005, 34.
10. Zacklin R, Guggenheim P, Schermers HG. *The amendment of the constitutive instruments of the United Nations and Specialized Agencies.* Retrieved from, 1968.