Protection of human rights in international law (Malekian)

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INTRODUCTION

Human rights are fundamental rights and freedoms that are entitled to every individual by virtue of their humanity, without discrimination of any kind. The protection of human rights is an important issue in international law, as it ensures that individuals are able to live their lives with dignity and respect. In this research paper, we will discuss the protection of human rights in international law, focusing on its historical development, the role of international organizations in protecting human rights, and the challenges faced in ensuring effective protection of human rights.

Historical Development of Human Rights in International Law

The 1215 Magna Carta, which established the notion that the king was subject to the law and that specific rights of the individual should be preserved, is one of the oldest examples of human rights in international law. The foundation for the rule of law and individual liberty was laid by this document. Natural rights were created in the 17th and 18th centuries by Enlightenment theorists like John Locke and Jean-Jacques Rousseau who believed that everyone has them regardless of their nationality or social standing. These concepts had an impact on how international law was developed and how the French Declaration of the Rights of Man and of the Citizen was written in 1789.

The Universal Declaration of Human Rights was adopted in 1948 as a result of World War II's aftermath and the atrocities that were committed during that time. A number of international human rights treaties and conventions, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, were drafted in response to this document, which established a framework for the universal protection of human rights.

With the creation of the International Criminal Court and the maturation of the Responsibility to Protect doctrine, the end of the Cold War and the collapse of the Soviet Union in the 1990s resulted in a greater emphasis on human rights in international law.

Despite these advancements, there are still issues with the protection of human rights under international law, such as the absence of all-encompassing enforcement mechanisms and some states' opposition to these norms. However, the growth of human rights in international law over time shows that there is a rising appreciation for the significance of safeguarding individual liberty and fostering human dignity on a global level.

Although the idea of human rights has existed throughout history, it wasn't until the end of World War II that it began to get major attention on a global scale. The world community came together to establish a system that would protect human rights on a global scale in response to the crimes done during the war, such as the Holocaust. The United Nations General Assembly passed the Universal Declaration of Human Rights (UDHR) in 1948, outlining a comprehensive list of human rights that are universally acknowledged and safeguarded.

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) are two international human rights treaties that came after the Universal Declaration of Human Rights. The legal basis for the protection of human rights in international law is established by these treaties and other international human rights instruments.

Role of International Organizations in Protecting Human Rights

The main body in charge of advancing and defending human rights on a global scale is the United Nations (UN). The Office of the High Commissioner for Human Rights (OHCHR) and the Human Rights Council (HRC) are just two of the organizations and processes the UN has developed to monitor and guarantee adherence to human rights standards. The headquarters of OHCHR is in Geneva, Switzerland.

To advance and defend human rights, the OHCHR offers guidance and technical support to governments, national human rights organizations, and civil society groups. The HRC is entrusted with keeping track of records and reporting on human rights abuses in various nations and is in charge of promoting and protecting human rights internationally.

The defence of human rights is also significantly aided by regional organizations. For instance, the Inter-American Commission on Human Rights (IACHR) and the African Commission on Human and Peoples' Rights (ACHPR) both keep an eye out for violations of human rights in the Americas and Africa, respectively, while the European Court of Human

Rights (ECHR) is in charge of ensuring adherence to the European Convention on Human Rights.

The creation and implementation of international human rights treaties and conventions is one of the main roles that international organizations play in defending human rights. A framework for governments to work within in order to ensure that these rights are respected and promoted within their own borders is provided by these agreements, which create universal criteria for the protection of human rights. Through institutions like the European Court of Human Rights and the United Nations Human Rights Council, international organizations also contribute to the oversight of adherence to these accords.

International organizations are crucial in promoting the preservation of human rights and increasing awareness of related concerns. This can include educating the public and legislators about particular human rights violations, urging states to take action to defend those rights, and conducting campaigns to increase awareness of those violations.

RESEARCH PROBLEM

The absence of global enforcement mechanisms is the primary issue with the protection of human rights under international law. Despite the existence of numerous regional and international human rights treaties and instruments, there is no international agency that can guarantee adherence to human rights standards. This means that it is frequently the responsibility of individual governments to uphold human rights within their own borders, which can result in inconsistent upholding and human rights abuses. The efficiency of international human rights mechanisms may also be hampered by some nations'

possible resistance to international criticism of their human rights policies. As a result, there is a need for stronger enforcement mechanisms and greater international cooperation to ensure that human rights are respected and protected around the world.

Challenges faced while protecting human rights
- Despite international organizations' best efforts, ensuring the effective protection of human rights still faces considerable obstacles. The absence of political will on the part of some governments to put human rights principles into practice is one of the major problems. Many nations, especially those with a poor track record for upholding human rights, reject international monitoring of their human rights policies and may even deliberately try to undermine these norms.
- Another issue is that some nations lack the resources and capacity necessary to successfully implement international human rights norms. This is especially true in developing nations, where poverty and lack of development make it difficult for governments to guarantee the protection of human rights and deliver basic services.
- Cultural relativism, the notion that human rights are culturally distinctive and should be understood in the context of the culture in which they are applied, is one of these elements. Some claim that this can result in a situation where human rights abuses committed by members of some cultures are excused on the grounds of cultural differences. Others, however, contend that cultural relativism helps ensure that human rights are interpreted in a way that is fit for the culture and that they are not imposed on communities that do not want them.
- The role of non-state actors is another aspect that may have an impact on the preservation of human rights. The ability of non-state actors, such as multinational businesses and international organizations, to significantly affect human rights has come into greater focus in recent years. It may be more challenging to hold these actors accountable for violating human rights because they may not be bound by the same laws as states.

Arguments raised in favor of human rights:
- Respect for human dignity is fundamentally expressed through the defence of human rights. No matter what their history, ethnicity, or

socioeconomic standing, every person has inherent worth and value, and defending their rights is a means to acknowledge and respect that worth.

- Justice and fairness: The concepts of justice and fairness are intertwined with human rights. Individuals' rights must be protected in order to ensure that they are treated fairly and have access to the needs of life, such as food, water, and healthcare.

- fostering peace and stability: Conflict and instability are frequently rooted in breaches of human rights. By addressing the root causes of tension and discontent, protecting human rights can aid in conflict prevention and peace promotion.

- Protection of human rights is strongly related to economic development because it ensures that people have access to resources like education, healthcare, and other essentials for prosperity and economic growth.

Arguments against human rights

- Cultural relativism: Some contend that human rights are a Western idea that ignores the religious and cultural diversity of other nations. They consider it to be cultural imperialism to impose human rights standards on other countries.

- State sovereignty: Some contend that international participation in domestic problems breaches the idea of state sovereignty and that the protection of human rights should be left to individual governments.

- National security: Some argue that in certain circumstances, such as during times of war or national emergency, the protection of human rights may need to be set aside in order to protect national security.

It is significant to note that criticism and discussion have been levelled at each of these claims. The universality concept, which maintains that human rights are intrinsic to all individuals regardless of their cultural or religious background, has been used as an example to refute the claim of cultural relativism. The notion of the Responsibility to Protect, which contends that the international community has a duty to step in when nations are incapable or unwilling to protect their own citizens from violations of human rights, has been used to refute the claim of state sovereignty.

ANALYSIS

In this part of research spaper we analyze the arguments and all the pros cons of international human rights Because everyone has a basic right to dignity and respect and shouldn't be subjected to capricious or unfair treatment by the government or other people, defending human rights is crucial. Thus, upholding human rights is crucial to ensure that people can lead happy, fruitful lives free from intimidation, prejudice, and persecution.

The defense of human rights might actually take many different forms. It could entail the creation and execution of rules and regulations that guarantee everyone receives the same treatment and protection, regardless of their color, gender, religion, or other traits. It might also entail the creation of organizations and systems, such as human rights commissioners, ombuds people, and courts, whose job it is to oversee and uphold human rights norms.

Making sure that these rights are upheld and promoted in reality is one of the biggest issues in the preservation of human rights. Human rights continue to be violated throughout most of the world, despite the presence of organizations and laws intended to do so. Torture is just one of the many possible manifestations of these crimes.

CONCLUSION

The protection of human rights in international law is a critical issue, as it ensures that individuals are able to live their lives with dignity and respect. Significant progress has been made in the establishment of international human rights law, and the efforts of international organizations have contributed significantly to the promotion and defense of human rights throughout the world. The effective preservation of human rights still faces several obstacles, such as a lack of political will and financial resources. It is crucial that the international community maintain its efforts to uphold human rights.

Although the creation of international human rights law has been a tremendous accomplishment, much more needs to be done to ensure that human rights are effectively protected globally. The international community must continue to work towards this objective while also taking into account the political, social, and cultural aspects that may have an impact on the upholding of human rights.