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# Violation of Human Right Treaties on an International Level

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## ABSTRACT

*A large number of international and regional treaties have been signed since the nonbinding Universal Declaration of Human Rights. Critics counter that it is unlikely that these have had any impact. Others argue that international frameworks can enhance adherence to human rights, particularly in more democratic nations or nations with a robust civil society committed to international relations. Since the U.N. issued the Universal Declaration of Human Rights in 1948, several formal treaties have been negotiated between countries that acknowledge hundreds of human rights, including political and civil rights, the right to work, the right to obtain health care, and the right to an education. However, some detractors claim that these treaties are overly utopian and difficult to enforce because of which violations happen. This paper aims to review violations of human rights treaties that have taken place on an international level and the types of violation and attempts to answer the question whether international human rights accords effectively safeguard marginalized groups, or should we look for alternatives?*

**Keywords:** Rights, treaties, convention, law, international, human.

## I. INTRODUCTION

The body of international law created to advance and defend human rights at the national, regional, and international levels is known as international human rights law. Treaties and common international law make up the majority of international human rights legislation. Even though they are not enforceable by law, other international human rights instruments support and advance international human rights law.<sup>3</sup> Human rights are typically seen as an individual's fundamental moral rights necessary for living in dignity. Human rights therefore serve a greater social purpose, and the legal system decides which rights are seen to be the most significant in society at any given time. Thus, human rights serve a larger social purpose, and the legal system determines which rights are seen to be the most important in society at any particular time. The concept of human rights and principles of human rights go back to ancient times, such as the

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<sup>3</sup> In Larger Freedom: Towards Development, Security and Human Rights for All, Report of the Secretary-General, UN Doc A/49/2005, 21 March 2005.

Ten Commandments, the Law of Hammurabi, and the rights of the citizens of Athens.

While human rights are commonly considered inherent and beyond the state's interference, it remains necessary for individuals to recognize and establish these rights, ultimately codifying them within the legal framework. While human rights have a long history in theory and even in spasmodic practice, it was the American and French revolutions of the eighteenth century that sought to create national politics based on broadly shared human rights.<sup>4</sup> Despite the rhetoric of universality, human rights remained essentially a national matter, to be accepted or not, until 1945 when they were recognized in global international law.

The Universal Declaration of Human Rights (UDHR) was created in response to the atrocities of World War II, including the Holocaust. The document sheds light on the human rights to which all people are entitled, such as freedom from torture, freedom of expression and the right to seek asylum. If these rights are not protected or blatantly ignored, they are violated.

According to the U.S. Constitution, treaties, along with the Constitution and laws, constitute the "supreme law" of the country. However, the Supreme Court has ruled that the Constitution takes supremacy over any treaties if they disagree with the Constitution. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Rights of the Child (1989), and the International Convention on the Protection of Human Rights and Fundamental Freedoms (ICCPR), adopted in 1989, the international human rights regime began to shift away from a general focus and turn its attention instead to particularly marginalized and oppressed groups. The International Convention for the Protection of All Persons from Enforced Disappearances (ICED), which was also adopted in 2006, is the most recent convention. The UN treaty system now also reflects the idea that all rights are justiciable with the ratification of an Optional Protocol to ICESCR in 2008, allowing for individual complaints over alleged infringement of socio-economic rights.<sup>5</sup>

Although these rights have been violated and abused during some of the coldest wars in our history, acts of generosity, empathy, truth, and compassion seem to have paved the road for these values throughout our dynamic past. It would be incorrect for the world to declare that human rights are at peace, unthreatened, or vulnerable even though we have witnessed truth win throughout the course of time.

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<sup>4</sup> UN Doc. A/RES/60/251 (para 13), 3 April 2006, recommending to the Economic and Social Council to "abolish" the Commission on Human Rights on 16 June 2006.

<sup>5</sup> Home| United Nations| <https://www.un.org/en/>

Although most countries have ratified almost all major human rights treaties, rights violations are still common. Political repression exists all over the world, not just in China and Russia. In many developing countries, the criminal justice system works poorly, and the police often use illegal methods, such as torture, to extract confessions. Old problems like child labor, subjugation of women, religious persecution and even slavery are strikingly prevalent. Even in the United States, terrorist suspects are subject to torture, police brutality is on the rise, and convicted criminals often receive exceptionally harsh sentences.

According to the U.S. Constitution, treaties, along with the Constitution and laws, constitute the "supreme law" of the country. However, the Supreme Court has ruled that the Constitution takes supremacy over any treaties if they disagree with the Constitution.

There have been many instances where international human rights have been violated such as in **Jawara v. Gambia**, the Commission determined that the military coup that took place in the nation's capital constituted a "grave violation of the Gambian people's right to freely choose their government" as guaranteed by Article 20(1) of the African Charter on Human and Peoples' Rights (ACHPR) of 1981. In the first case, the SADC Court decided in its substantive decision of November 2008 that it has jurisdiction over the acquisition of agricultural land by the Zimbabwean government under the SADC Agreement. constitutional amendment (Amendment 17). The court further found that because it targeted white farmers, Zimbabwe's land reform program violated <sup>6</sup>Article 6(2) of the SADC Treaty, which prohibits, among other things, discrimination based on race. Regarding the compensation order, the court ordered Zimbabwe to protect the possession, management and ownership of land belonging to the applicants and to pay reasonable compensation to those whose land has already been expropriated.

The problem in this research paper is violation of human right treaties on an international level, the cause of this problem can be recognised as the state commits violations of human rights either directly or indirectly. Violations can either be intentional on the part of the state or result from the state not being able to prevent the violation. When a state commits human rights violations, various parties may be involved, such as the police, judges, prosecutors, government officials, and others. A violation can be physical in nature, such as police brutality, but rights such as the right to a fair trial can also be violated if there is no physical violence involved.

Another type of violation is—failure of the state to protect it occurs when there is conflict

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<sup>6</sup> ARTICLE 6(2) - Treaty of the Southern African Development Community - SADC and Member States shall not discriminate against any person on grounds of gender, religion, political views, race, ethnic origin, culture, ill health, disability, or such other ground as may be determined by the Summit.

between individuals or groups in society. If the state does nothing to intervene and protect vulnerable people and groups, it is complicit in the violations. In the United States, the state did not protect black Americans when lynchings were common across the country. Since many of those responsible for lynching were also state figures (such as the police), this is an example of both violations at the same time. For example, Nigerian oppression by Boko Haram.

The war between Boko Haram and the military is taking its first deaths among Nigerian youngsters. Both parties are committing numerous crimes that violate international human rights, which have devastating and long-term repercussions. These crimes include Boko Haram kidnapping children and compelling young boys to enlist in the military while girls are subjected to sexual assault and marriage off, which is increasing the number of child wives in the nation. An organization called Boko Haram is attempting to impose its own rules and turn the nation into an Islamic state. 276 schoolgirls were abducted by Boko Haram in the horrifying case of the Chibok girls, of which 112 are still missing. Boko Haram keeps individuals in detainment centers where they are tormented in inhumane ways like beating, assault and other unmentionable exercises. Illegal and subjective killings are practiced by both the government and state on-screen characters. The authorities curbed rights such as the right to freedom of expression, peaceful assembly and the freedom of movement. The criminal justice framework has too apparently collapsed.

While all of the rights recognized by the Universal Declaration of Human Rights and the International Covenants on Economic, Social, and Cultural Rights (ICCPR, CESCR) are regarded as vital, there are some transgressions that people tend to view as more severe than others. Many people believe that civil rights, which include the rights to life, safety, and equality before the law, are "first-generation" rights. This category also includes political rights, such as the right to a fair trial and the right to vote. Types of rights violated are

### **1. Civil and political rights**

Genocide, torture, and arbitrary imprisonment all represent infringements on civil and political liberties. These infractions frequently take place during times of war, and when they cross over with rules governing armed conflict, it is characterized as a war crime.

Violations of the freedom of expression and the right to peaceful assembly can also result from conflict. The offenses are typically committed by states in an effort to uphold order and crush rebellious social movements. The strategy of suppressing political rights has been used by many regimes where a large amount of the population is dissatisfied. Human trafficking, involving the coerced labor and sexual exploitation of millions of men, women, and children, stands as

one of the most severe global issues at present. One of the worst problems in the world today is forced labor and sexual exploitation of millions of men, women, and children. In many regions of the world, prejudice based on religion is also highly prevalent. These offenses frequently take place as a result of the state's failure to safeguard vulnerable populations.

## **2. Economic, social, and cultural rights**

The right to work, the right to an education, and the right to culture are all examples of economic, social, and cultural rights, according to the UDHR. Economic, social, and cultural rights are subject to infringement by states and other actors, as is the case with all other human rights. A few instances of these rights being infringed are provided by the Office of the High Commissioner for Human Rights of the United Nations. They consist of:

- Putting garbage from state-owned facilities in water, for instance (right to health)
- Taking away someone's house by force (the right to adequate housing)
- denying access to health treatments and information (the right to health)

The right to work- Factors like ethnicity, gender, and sexual orientation are grounds for discrimination at work. States are given the main duty for upholding and promoting human rights under human rights accords. Government has three obligations when they ratify a treaty. They must uphold, respect, and implement human rights. Government has the responsibility to punish those who violate the law. Everyone (even the government itself) must be held accountable.

### **The Syrian Refugee Crisis**

The Syrian armed forces have been accused of systematic destruction and theft of private property, as well as the unlawful killing of people, including children. They have also been accused of torturing hospital patients who cannot afford to pay for their care and civilians who have been subjected to torture. Massive numbers of arbitrary arrests have also been made, coupled with forced disappearances and kidnappings. Those who abduct women and children often subject them to sexual abuse or trade them and use them as slaves.<sup>7</sup>

## **II. WHEN DOES A COUNTRY COMMIT A BREACH OF INTERNATIONAL LAW**

A country is deemed to have breached international law when it fails to adhere to the treaties it has ratified or violates universally accepted customs and regulations. Such a violation of an

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<sup>7</sup>Report of the independent international commission of inquiry on the Syrian Arab Republic [https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/A.HRC.22.59\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/A.HRC.22.59_en.pdf)

international obligation is commonly referred to as an internationally wrongful act. As a consequence, a country committing such an act can be held accountable and subject to penalties. Customary international law is binding on all nations, and the International Law Commission's Article on State Responsibility outlines the rules pertaining to breaches of customary law and their consequences. Moreover, under international law, an action by any state organ is considered an action of the state itself.

A state infringes international law when it contravenes obligations that are in force at the time of the violation. Furthermore, a state can be held liable for violating international law if it assists or supports another state in committing an internationally wrongful act with full awareness of the circumstances. Additionally, if a state directs, coerces, or exercises control over another state in carrying out an internationally wrongful act with complete knowledge of the situation, it is held responsible for the breach of international law. A state breaches international law by engaging in an "internationally wrongful act," which refers to the violation of an international obligation that the state was obligated to uphold at the time of the act. States are obligated to adhere to international treaties they have endorsed.

The International Law Commission (ILC) has formulated the Articles on State Responsibility for Internationally Wrongful Acts, which have attained the status of customary international law, binding all states. These articles delineate the conditions under which international law is violated, the manner in which such violations occur, the parties responsible for these breaches, and the ensuing consequences. They provide a comprehensive framework for understanding and addressing violations of international law.

However, there are exceptions to a state's liability for violating international law:

**1. Consent:** An act is not considered wrongful if one state carries it out against another state with the latter's consent. In such cases, the act must be limited to the consent given, such as one state allowing another to use its territorial waters or airspace.

**2. Self-defense:** <sup>8</sup>Acts performed by a state in self-defense against another state or organization are not considered violations of international law, provided that they align with the United Nations Charter .

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<sup>8</sup> Article 51 of United Nations Charter - "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

3. Countermeasures: If a state's actions breach its obligations to another state but are taken as countermeasures against that state, these actions are not deemed violations of international law.

4. Force majeure: Force majeure refers to unforeseeable events beyond a state's control. When such events make it impossible for a state to fulfill its obligations to another state, any actions taken or not taken due to these circumstances are not regarded as violations of international law.

5. Necessity: If a state resorts to an unlawful act as a last resort to protect an essential interest from an imminent threat, it is not considered to have violated its international obligations.

### **III. THE REPERCUSSIONS RESULTING FROM A BREACH OF A TREATY**

#### **(A) Responsibility of States for Internationally Wrongful Acts<sup>9</sup>**

State responsibility was discussed in the International Law Commission's Report on the Work of its Fifty-third Session, 23 April - 1 June and 2 July - 10 August 2001, Official Records of the General Assembly, Fifty-sixth Session. In 1975, at its Twenty-seventh Session, the Commission outlined the format of the draft articles on the topic of "State responsibility," as follows: The first part would address the origins of international duty; the second part would address the nature, scope, and forms of international responsibility; and The third section, which the Commission may choose to include, might address the issue of international duty and dispute resolution.

Under Part One, Chapter III - The breach of an international obligation

- Article 12 addresses the concept of a breach of an international obligation by a state. It states that such a breach occurs when a state's action does not align with what is expected of it according to the international obligation, regardless of the nature or origin of that obligation. In essence, any failure by a state to meet its international obligations is considered a breach, regardless of the specifics of the obligation.
- Part Two talks about the content of the international responsibility of a state, chapter -I outlines key principles related to the legal consequences of an internationally wrongful act by a state in international law:
- Article 28 specifies that an internationally wrongful act committed by a state results in legal consequences according to the rules set out in this section. Article 29 emphasizes

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<sup>9</sup> Responsibility of States for Internationally Wrongful Acts 2001 ([https://legal.un.org/ilc/texts/instruments/english/draft\\_articles/9\\_6\\_2001.pdf](https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf))

that these legal consequences do not release the responsible state from its ongoing duty to fulfill the breached obligation.

- Article 30 highlights two obligations of the responsible state: (a) to cease the wrongful act if it is ongoing and (b) to provide assurances and guarantees to prevent a repetition of the wrongful act, if necessary.
- Article 31 states that the responsible state must provide full reparation for any injury caused by the wrongful act, which can include both material and moral damages.
- Article 32 asserts that the responsible state cannot use its internal laws as a justification for failing to meet its obligations under these rules.
- Article 33 clarifies that the obligations outlined in this section can be owed to other states, multiple states, or the international community, depending on the nature of the international obligation and the circumstances of the breach. It also notes that these rules do not prejudice any rights that may directly accrue to individuals or entities other than states as a result of a state's international responsibility.

Under responsibility of states for internationally wrongful acts , Article 3 under chapter-I discusses the characterization of an act by a state as internationally wrongful in the context of international law. It emphasizes that this characterization is determined by international law and is not influenced by the state's own internal laws, even if the same act is considered lawful under those internal laws. Key points within the article and its commentary include: An act by a state can only be considered internationally wrongful if it violates an international obligation, regardless of whether it complies with the state's internal laws. The article cites historical legal cases, such as the *Treatment of Polish Nationals* case, to illustrate that a state cannot use its internal laws to evade international obligations. The principle that conformity with internal law doesn't prevent an act from being internationally wrongful has been affirmed by international judicial decisions, including those of the Permanent Court of International Justice (PCIJ) and the International Court of Justice (ICJ).

International law prevails over municipal (internal) law in cases involving states that are parties to a treaty. This principle was endorsed in the work of the League of Nations and the United Nations on codifying the rights and responsibilities of states. The 1969 Vienna Convention Article 27 explicitly states that a party cannot use its internal law as an excuse for not fulfilling its treaty obligations. Article 3, therefore underlines that the characterization of a state's act as internationally wrongful is solely determined by international law, and compliance with internal

laws does not exempt a state from its international responsibilities.

These articles collectively address the legal repercussions and responsibilities of states in cases of internationally wrongful acts in the realm of international law.

### **(B) Vienna Convention on The Law of Treaties 1969**

Article 27 of Vienna Convention on the Law of Treaties - Violation of Treaty Obligations -

Article 27 of the Vienna Convention on the Law of Treaties plays a crucial role in the interpretation of international treaties. It establishes the principle that a party to a treaty cannot invoke its domestic laws as a justification for failing to comply with the treaty. In other words, if a state has committed to an international treaty, it is obligated to adhere to its provisions, even if those provisions conflict with the state's own internal laws or regulations. This article underscores the supremacy of international law over national law in the context of treaty obligations, ensuring that states are held accountable for their commitments on the global stage, and it is a fundamental principle for the consistency and effectiveness of international treaty relations.

#### **a. Article 27. Violation of Treaty Obligations**

(a) If a State fails to carry out in good faith its obligations under a treaty, any other party to the treaty, acting within a reasonable time after the failure, may seek from a competent international tribunal or authority a declaration to the effect that the treaty has ceased to be binding upon it in the sense of calling for further performance with respect to such State.

Certainly, let's elaborate in more detail on Article 27 of the Vienna Convention on the Law of Treaties (VCLT), which addresses the violation of treaty obligations.

##### **1. Violation of Treaty Obligations:**

Article 27(a) comes into play when one of the parties to a treaty fails to fulfill its obligations under that treaty. This failure can take various forms, including acting in bad faith, not genuinely attempting to meet its treaty commitments, or outright violating the treaty's provisions.

##### **2. Seeking Relief:**

If a state party to the treaty (the aggrieved state) believes that another state party (the breaching state) has violated its treaty obligations, it can take action within a "reasonable time" after the breach occurs. This action involves seeking relief from an international tribunal or authority

##### **3. Declaration of Non-binding Status:**

The primary remedy available to the aggrieved state is to request a declaration from the competent international tribunal or authority. This declaration essentially states that the treaty has "ceased to be binding upon it" with respect to the breaching state. In other words, the treaty is no longer considered binding for the aggrieved state in its relations with the breaching state. This allows the aggrieved state to free itself from its obligations under the treaty in relation to the breaching state.

#### **4. Reasonable Timeframe:**

The VCLT does not specify a fixed timeframe within which the aggrieved state must seek this relief. Instead, it uses the term "reasonable time." The use of "reasonable time" acknowledges that the specific circumstances of treaty breaches can vary widely, and what is considered reasonable may depend on the nature and gravity of the breach, as well as the complexity of the treaty in question.

#### **5. Competent International Tribunal or Authority:**

To initiate the process, the aggrieved state must bring its case before a competent international tribunal or authority. The specific forum for resolving these disputes can vary depending on the treaty itself, any dispute resolution mechanisms established within the treaty, or established international bodies responsible for handling such matters. The tribunal or authority will hear the case, evaluate the evidence, and determine whether the breach is indeed of a nature that justifies declaring the treaty non-binding for the aggrieved state.

#### **6. Consequences:**

Once the tribunal or authority issues the declaration that the treaty is no longer binding upon the aggrieved state concerning the breaching state, the aggrieved state is released from its obligations under the treaty in its relations with the breaching state. This essentially means that, as far as that specific treaty is concerned, the aggrieved state is no longer bound by its obligations to the breaching state. However, the treaty remains binding between the aggrieved state and any other states that are parties to it.

In summary, Article 27 of the VCLT is an important component of international law, as it provides a mechanism for states to seek relief when another state breaches its treaty obligations. This relief takes the form of a declaration that releases the aggrieved state from its obligations under the treaty with respect to the breaching state. The timeframe for taking action is left flexible and must be reasonable, and the resolution of such disputes is entrusted to competent international bodies, as defined by the treaty or relevant international agreements. This article

ensures that treaty breaches are not left unaddressed and that states have a means of seeking redress when their treaty rights are violated.

#### **b. Article 60 of VCLT**

Article 60 of the Vienna Convention on the Law of Treaties (VCLT) presents a comprehensive framework for responding to violations of international agreements. It aims to strike a balance between the need for effective actions against treaty breaches and the preservation of treaty commitments. This has resulted in a complex regime characterized by four key elements: (a) the requirement of a "material" breach for treaty-based responses, (b) limitations on the right to suspend or terminate treaties, (c) a detailed classification of treaties to identify states entitled to respond to breaches, and (d) the imposition of procedural prerequisites for suspending or terminating treaties.

The requirement of a "material breach" is a fundamental aspect of Article 60. It states that the suspension and termination of treaties can only be pursued in response to breaches of a material nature. This approach avoids codifying remedies for insignificant breaches, emphasizing stability in treaty relations. Article 60(3) defines a material breach by distinguishing two cases: the first involves the repudiation of a treaty, typically seen as an attempt by a state to free itself from its obligations. The second defines a material breach as the violation of a provision essential to the treaty's objectives, focusing on the character of the breached obligation rather than its severity. Notably, Article 60 does not allow responses to serious breaches of non-essential treaty provisions, but it does allow responses to trivial breaches of essential provisions. This approach is subject to debate, particularly since earlier drafts required substantial violations, but the wording of Article 60(3)(b) is clear in its current form.

### **IV. THE ROLE OF INTERNATIONAL COURT OF JUSTICE**

The International Court of Justice (ICJ) plays a vital role in settling disputes brought before it by states and providing advisory opinions on legal questions. Since its establishment, the ICJ has handled more than 170 cases, and its significant decisions have significantly contributed to the evolution of international law. One noteworthy case is the "Consequences of building a wall in the occupied Palestinian territory," in which the ICJ issued an advisory opinion. It determined that the construction of the wall and the occupation of Palestinian territory by Israel were in violation of international law. The ICJ directed Israel to halt the illegal activity, demolish the entire structure, and provide reparations for the damages caused.

Another landmark case involved "Military and Paramilitary Activities in and against

Nicaragua." In this instance, the ICJ ruled against the United States for breaching customary international law. The United States was found to have supported the Contras, a right-wing rebel group, in their rebellion against the Sandinistas, a socialist political party in Nicaragua. The U.S. was also found guilty of mining Nicaragua's harbors. These actions were deemed interference in Nicaragua's internal affairs and the use of force against another state. The ICJ ordered the United States to cease all illegal actions and make reparations to the Republic of Nicaragua. These cases exemplify the ICJ's role in upholding international law and ensuring compliance with its principles.<sup>10</sup>

The International Court of Justice (ICJ) plays a crucial role in settling cases involving the violation of international treaties. Its role can be as follows:

**1. Adjudication of Disputes:** When two or more states have a dispute concerning the interpretation or application of international treaties, they can bring the case before the ICJ. The court acts as a neutral and impartial arbiter, making legal determinations on the issues at hand. Its judgments are binding on the parties involved, and they serve to clarify the rights and obligations of the states under the treaty.

**2. Advisory Opinions:** In addition to resolving disputes between states, the ICJ can also provide advisory opinions on legal questions referred to it by international organizations and certain UN bodies. While these opinions are not legally binding, they hold significant weight in the interpretation of international law and can guide states in their actions.

**3. Development of International Law:** Through its decisions and interpretations, the ICJ contributes to the development and clarification of international law. Its rulings set precedents that influence the behavior of states and help establish customary international law. This, in turn, can impact the negotiation and drafting of future treaties.

**4. Promotion of Peace and Stability:** By providing a forum for peaceful dispute resolution, the ICJ contributes to the promotion of international peace and security. States have a peaceful means to resolve their disputes rather than resorting to force or other forms of coercion.

**5. Enforcement of Treaty Obligations:** When a state is found to have violated an international treaty by the ICJ, the court's judgments can lead to enforcement measures. This may include actions taken by the international community to ensure that the violating state complies with its treaty obligations.

The ICJ serves as a fundamental institution for settling cases of violations of international

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<sup>10</sup> International court of justice

treaties by providing legal interpretations, binding judgments, and advisory opinions that contribute to the development of international law and the maintenance of peace and stability in the international community.

- <sup>11</sup>*Soering v. the UK* (June 1989): In the case of *Soering v. the UK* (June 1989), it revolved around the extradition of a man to the US to face murder charges that carried the death penalty as a potential punishment. The Court determined that sending him back to the US would violate the prohibition of torture, inhuman, or degrading treatment or punishment (Article 3, ECHR). A significant outcome of this decision was that it extended the protection of individuals within a member state of the Council of Europe to encompass situations beyond European borders. This principle has been subsequently applied in other cases, such as *Jabari v. Turkey* (July 2000), safeguarding asylum seekers from being returned to a country where their lives would be at risk.
- <sup>12</sup>*Tyler v. the UK* (March 1978): In this instance, the Court assessed that employing corporal punishment as a penalty for juvenile offenders was in violation of the European Convention on Human Rights (ECHR). This is because it contravened the right to be free from torture or inhumane and degrading treatment or punishment, as enshrined in Article 3 of the ECHR. The Court expressed it as follows: "The punishment he received, in which he was treated as a mere tool under the control of authorities, constituted an attack on precisely what Article 3 aims to safeguard, namely a person's dignity and physical well-being." This case serves as a compelling illustration of how the ECHR adapts to evolving societal values, demonstrating its dynamic nature.
- <sup>13</sup>*Kokkinakis v. Greece* (April 1993): This case presented a thought-provoking legal scenario, revolving around the clash of rights among various individuals. It revolved around the matter of proselytizing and whether the practice of imparting religious teachings, as protected by Article 9 of the European Convention on Human Rights (ECHR), infringes upon another individual's right to religious freedom. The court found it crucial to draw a distinct line between the legitimate acts of teaching, preaching, or engaging in religious discussions and the use of unethical and deceptive methods to persuade someone to change their religious beliefs. Such unethical methods include

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<sup>11</sup> App No 14038/88 (Application No) A/161 (Official Citation)[1989] ECHR 14 (Other Reference)[1989] 11 EHRR 439 (Other Reference) IHRL 90 (ECHR 1989) (OUP reference)

<sup>12</sup> App No 5856/72 (Application No) A/26 (Official Citation)[1978] ECHR 2 (Other Reference)(1980) 2 EHRR 1 (Other Reference)IHRL 17 (ECHR 1978) (OUP reference)

<sup>13</sup> App No 14307/88 (Application No) A/260-A (Official Citation)[1993] ECHR 20 (Other Reference)(1994) 17 EHRR 397 (Other Reference)IHRL 2980 (ECHR 1993) (OUP reference)

offering material or social incentives, employing violence, or resorting to brainwashing techniques.

- <sup>14</sup>***DH v Czech Republic*** (November 2007): This case was initiated by 18 Roma children due to the troubling practice of segregating Roma students into special schools designed for children with learning disabilities, irrespective of their actual abilities. This segregation had the consequence of severely limiting their prospects for pursuing higher education or gaining access to employment opportunities. In a groundbreaking ruling, the Court, for the first time, identified a violation of Article 14, which prohibits discrimination, in the context of a "pattern" of racial discrimination within a specific domain of public life, namely, public schools. The Court determined that this systematic pattern of racial segregation in educational institutions contravened the non-discrimination safeguards outlined in the European Convention on Human Rights (ECHR), as specified in Article 14. Furthermore, it underscored that even a broadly worded policy or measure, seemingly neutral in its language, can still result in discrimination against a particular group, leading to indirect discrimination. This case marked a significant milestone in challenging systemic racial segregation in the field of education.
- In <sup>15</sup>***Jawara v. Gambia***, the Commission determined that the military coup that took place in the nation's capital constituted a "grave violation of the Gambian people's right to freely choose their government" as guaranteed by Article 20(1) of the African Charter on Human and Peoples' Rights (ACHPR) of 1981.

**TABLE: Major United Nations's Human Rights Treaties**

Treaties	Monitored by	Optional Protocols
International Convention on the Elimination of Racial Discrimination	Committee on the Elimination of Racial Discrimination	

<sup>14</sup> 57325/00

<sup>15</sup> Communication no 147/95 (Application No) Communication no 149/96 (Application No) 27th ordinary session (27 April-11 May 2000) (Official Citation) 13th Annual Activity Report (1999-2000) (Official Citation) (2000) AHRLR 107 (ACHPR 2000) (Other Reference) (2001) 8 IHRR 243 (Other Reference) IHRL 218 (ACHPR 2000) (OUP reference)

(1965)		
International Covenant on Civil and Political Rights (1966)	Human Rights Committee	First Optional Protocol establishing an individual complaint mechanism Second Optional Protocol aiming at the abolition of the death penalty
International Covenant on Economic, Social and Cultural Rights (1966)	Committee on Economic, Social and Cultural Rights	Optional Protocol recognising the Committee's competence to receive communications submitted by individuals or groups (2008)
Convention on the Rights of the Child (1989)	Committee on the Rights of the Child	Optional Protocol on the involvement of children in Armed Conflict (2000). Optional Protocol on the sale of children, child prostitution and child pornography (2000). Optional Protocol allowing children to bring complaints directly to the Committee (2011).
Convention on the Elimination of All Forms of Discrimination Against Women (1979)	Committee on the Elimination of Discrimination Against Women	Optional Protocol on the right to individual complaints
Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment (1984)	Committee against Torture	Optional Protocol establishing a system of regular visits by independent international and national bodies - monitored by the Subcommittee on Prevention (2002)
Convention on the	Committee on the	

Protection of the Rights of Migrant Workers and members of their Families (1990)	Protection of the Rights of Migrant Workers and members of their Families.	
The Convention on the Rights of Persons with Disabilities (2006)	Committee on Enforced Disappearances	Optional Protocol on Communications allows individuals and groups to petition the Committee.
The Convention on Enforced Disappearances (2006)	Committee on Enforced Disappearances	

## V. PRESENT SCENARIO IN THE WORLD: ISRAEL AND PALESTINE CONDITION

Looking into the recent scenarios, one such scenario is the Israel Hamas War. Hamas's surprise attack on Israeli territory, resulting in the deaths of over 1400 Israeli civilians, including children, contravene international humanitarian law's safeguards for civilians and their property during wartime. This breach included the violation of provisions such as Common Article 3 of the 1949 Geneva Conventions, which mandates humane treatment of civilians and non-combatants, as well as Article 51 of the Geneva Conventions' Protocol I, designed to protect civilian populations from attacks. Additionally, a range of rules governing war crimes and crimes against humanity, found in Articles 7 and 8 of the Rome Statute of the International Criminal Court (ICC), which reflect customary international law, applies to Hamas leaders and fighters. Furthermore, Hamas's ongoing indiscriminate rocket attacks on Israeli targets put civilian structures and individuals in jeopardy, also contravening these treaty provisions and customary international law.

There is an ongoing debate among governments and legal scholars about the application of various fields of international law to non-state actors like Hamas. In the United States, the Bush administration's "legal black hole" argument was used after 9/11, suggesting that groups like al-Qaeda and the Taliban were not protected by the 1949 Geneva Conventions because they were non state actors. However, the U.S. Supreme Court ruled in 2006 that Common Article 3 of the conventions did apply to the U.S. war with al-Qaeda.

Both Israel and the "state of Palestine," recognized by most countries as comprising the West

Bank, Gaza, and East Jerusalem, are parties to the four Geneva Conventions of 1949. Israel has not ratified the first and second protocols, which further regulated protection of civilians, property, and the environment during war. Article 75 of Protocol I is a significant provision, viewed as customary international law, and it obliges combatant powers to treat persons held by them humanely and prohibits specific conduct. The 2006 Supreme Court decision emphasized the customary application of Article 75.

Palestine has ratified all three protocols, making it unequivocally bound by their terms. As a de facto governing authority in Palestine, particularly over Gaza, with control over its own militant forces, Hamas is obligated, as part of the state of Palestine, to comply with the Geneva Conventions and their three protocols.

The state of Palestine is also a party to the Rome Statute of the International Criminal Court (ICC), allowing for the potential accountability of Hamas leaders and personnel for acts such as genocide, crimes against humanity, or war crimes, particularly in Israeli territory or Gaza. Israel, like the United States and many other countries, is not a party to the Rome Statute, but the ICC prosecutor can still examine its military actions in Gaza.

The Geneva Conventions provide crucial protections for civilians and children during armed conflicts. These conventions are a core component of international humanitarian law and were established through a series of treaties between 1864 and 1949. The fourth Geneva Convention, ratified by Israel in 1951, focuses on safeguarding civilians, including those in occupied territories.

Several articles and additional protocols within the Geneva Conventions offer protection to children during armed conflicts, including the establishment of hospitals and safety zones for children, ensuring access to essential resources for children in besieged areas, providing special care for orphaned or separated children, and facilitating the evacuation and reunification of children with their families.

However, it's essential to note that, in the context mentioned, there have been allegations of violations of these conventions and the well-being of Palestinian children in the Gaza Strip. Israel's actions in Gaza have raised concerns, including the blockade's impact on access to necessities and damage to educational institutions.

The enforcement of international law, including the Geneva Conventions, relies on international bodies like the International Criminal Court (ICC) to investigate potential violations. The ICC can initiate investigations into actions in Palestine and Israel to determine if they breach international law. Some countries also have domestic proposals related to their assistance to

Israel, contingent on adherence to international laws.

It's important to note that the enforcement and prosecution of violations can be complex and subject to various factors, including political considerations and the jurisdictional recognition of international bodies like the ICC.

## **VI. IMPACT**

- **Deterioration of International Relations:** When a nation violates human rights treaties, it often draws condemnation from other countries and international organizations. This can result in the deterioration of diplomatic relations, affecting trade agreements, military alliances, and cooperation on various international issues. For example, the strained relations between Saudi Arabia and several Western countries following the murder of journalist Jamal Khashoggi is a case where human rights violations led to diplomatic tensions.
- **Humanitarian Crises:** Serious human rights violations, such as ethnic cleansing or systematic torture, can lead to humanitarian crises. This often involves mass displacement, refugees, and internally displaced populations. The Syrian civil war is a prime example, with millions of people displaced both within and outside of Syria.
- **International Tribunals and Courts:** In extreme cases, individuals responsible for human rights violations can be held accountable by international tribunals or courts. The International Criminal Court (ICC) is one such tribunal that prosecutes individuals for war crimes, genocide, and crimes against humanity. For example, the ICC indicted former President of Sudan, Omar al-Bashir, for genocide in Darfur.
- **Economic Consequences:** Violating human rights can lead to economic consequences. Other nations may impose sanctions, boycott products, or reduce trade agreements. These economic consequences can harm the country's economy and its citizens' standard of living.
- **Reputation Damage:** Countries that regularly violate human rights can experience severe damage to their international reputation. This may hinder their ability to engage in diplomatic negotiations, seek international support, or attract foreign investments. North Korea, for instance, has a notorious reputation for its human rights abuses, which has made it difficult for the regime to engage in international diplomacy.
- **Displacement and Refugees:** Violations of human rights, particularly in conflict zones, can lead to mass displacement and refugee crises. In the case of the Rohingya crisis in

Myanmar, hundreds of thousands of Rohingya Muslims fled to neighboring Bangladesh to escape violence, resulting in one of the world's largest refugee camps.

- **International Assistance:** Countries violating human rights may receive less international humanitarian assistance. This reduction in aid can exacerbate suffering and affect the well-being of their citizens, particularly in cases of conflict or natural disasters.
- **Loss of Sovereignty:** In some cases, international intervention may be authorized by the United Nations or regional organizations to protect human rights. This can involve peacekeeping missions or even military intervention, leading to a loss of sovereignty for the country in question. The Responsibility to Protect (R2P) doctrine is one example where the international community may intervene in cases of severe human rights violations.
- **Political Isolation:** Human rights violations often face political isolation. They may lose support in international organizations and alliances, making it challenging to build coalitions or gain influence on global issues. Zimbabwe, for instance, faced political isolation due to its human rights abuses under President Robert Mugabe.
- **Long-Term Repercussions:** Human rights violations can have long-lasting effects on the stability of a region. These violations can foster deep-seated animosities and grievances, hindering peace and reconciliation efforts for years or even decades.

In summary, the violation of human rights treaties on an international level has multifaceted and severe consequences, affecting diplomacy, economies, humanitarian conditions, and international relations. The international community plays a crucial role in addressing these violations and promoting human rights as a fundamental principle of global governance.

## **VII. RECOMMENDATION FOR FUTURE RESEARCH**

Here are the recommendations for future research on the violation of human rights treaties on an international level for future research -

Future research in the realm of international human rights violations should consider narrowing its focus to specific types of human rights abuses. By concentrating on particular violations, such as freedom of speech, political rights, or discrimination, researchers can provide more in-depth analyses that uncover the challenges and effectiveness of international treaties in addressing these issues. Additionally, regional studies can be highly valuable, as they allow researchers to gain insights into the diverse dynamics of human rights violations across different geographic regions and the varying impacts of international treaties in these areas.

Comparative research across multiple countries or regions is another avenue that future investigations can explore. These studies can help identify commonalities and differences in the implementation and enforcement of international human rights treaties, offering a nuanced understanding of best practices and challenges.

A critical aspect of future research should involve assessing the actual impact of international human rights treaties on the lives of individuals and communities affected by violations. Researchers can employ a combination of quantitative and qualitative methods to understand the tangible effects of these treaties. Furthermore, examining the mechanisms and strategies employed by different countries to comply with international human rights treaties is crucial. This includes an analysis of the role of domestic legislation, oversight bodies, and the steps taken to ensure treaty adherence.

Taking an intersectional approach is also recommended, considering the interplay of various factors such as gender, race, and socioeconomic status in human rights violations. This approach can provide insights into how different groups are affected and how international treaties can address their specific needs. Longitudinal studies that track the progress of human rights treaties and their impact over time, considering changes in political landscapes, global events, and evolving norms, can offer valuable historical perspectives.

In-depth case studies of specific countries or events can provide a deeper understanding of the practical challenges and successes in implementing human rights treaties, enabling researchers to explore context-specific dynamics. Non-state actors, including civil society organizations and multinational corporations, play a significant role in human rights violations. Future research should investigate their involvement and the effectiveness of international treaties in holding them accountable. Developing standardized metrics and indicators to assess and compare compliance with human rights treaties is a critical step. Such metrics can facilitate more rigorous quantitative analysis and a better understanding of the state of treaty implementation.

Research should also explore the legal frameworks within different countries that impact their adherence to international human rights treaties, including constitutional and legislative provisions. This legal context is a crucial element of compliance. The interaction between international human rights treaties and economic or trade agreements is a complex area that merits examination. Future research can explore the potential conflicts and synergies between these agreements and how they affect human rights practices. Moreover, future research should place a strong emphasis on providing policy implications. By offering recommendations for

governments and international bodies to improve the enforcement of human rights treaties, research can have a direct impact on policy and decision-making. Lastly, the role of emerging technologies, such as surveillance and social media, in human rights violations is a pressing concern. Investigating how international treaties can adapt to address these challenges is a critical avenue for future research.

## **VIII. CONCLUSION**

Hence, it is proved that in spite of having human right treaties and having ratified it still it does not prevent the nations from violating human rights. International agreements, with the exception of those related to international trade, financial regulations, and treaties with enforcement mechanisms, have often fallen short of their intended outcomes. Most countries have ratified major human rights treaties, yet widespread violations of rights persist worldwide. Human rights law is often overly ambitious, vague, and burdensome for states, making it challenging to enforce effectively. Governments, regardless of their economic status, are prone to violating human rights, illustrating the need for better enforcement mechanisms. Some states may commit to treaties with weak enforcement mechanisms primarily to signal their legitimacy, without a genuine intention to improve their human rights practices. The threat of penalties, such as trial at the International Criminal Court (ICC), can incentivize states to adhere to treaty provisions. During emergencies, governments in stable democracies and those with strong judicial systems may use derogations to temporarily limit civil and political liberties while avoiding treaty violations. Despite rights violations by wealthy countries, we should not abandon rights treaties but rather intensify efforts to enforce them.

In conclusion, the effectiveness of international treaties, particularly in the realm of human rights, is a topic of ongoing debate and scrutiny. While many countries have ratified such treaties, their impact remains limited. This phenomenon challenges the conventional wisdom that treaties represent the pinnacle of commitments between nations. Human rights law, in its current form, is criticized for its ambitious and sometimes utopian goals, as well as its lack of clarity in evaluating state compliance. Rights violations persist globally, underscoring the importance of stronger enforcement mechanisms. Some states may enter into treaties merely to bolster their legitimacy on the international stage, often without genuine intentions to improve their human rights practices. Nevertheless, the threat of penalties, such as ICC trials, can serve as a powerful deterrent for noncompliance, particularly for those states that genuinely intend to adhere to treaty provisions. In times of crises, derogations may provide a necessary flexibility for governments to address domestic challenges while avoiding treaty violations.

In light of these complexities, it is imperative not to discard human rights treaties altogether. Instead, the focus should be on intensifying efforts to enforce them effectively. Furthermore, future international agreements should be designed with greater consideration for their potential impact and the inclusion of robust enforcement mechanisms. This approach can help bridge the gap between the lofty goals of human rights law and its practical implementation, ultimately leading to a more just and rights-respecting world.

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