

# 4

## Human Rights in International Law

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### Chapter Contents

- Introduction 61
- Historical Evolution of International Human Rights Law 62
- Sources of International Human Rights Law 64
- Monitoring and Enforcing International Human Rights Law 69
- Conclusion 75

### Reader's Guide

This chapter introduces the international legal context of human rights. It complements the preceding chapters by outlining the practical (rather than theoretical) framework for human rights. In summary, this chapter will consider where to find human rights (in law) and how to ensure those rights and freedoms are respected by states. From an initial focus on the principal instruments (treaties), the institutional framework will be considered, explaining the mechanisms for monitoring and enforcing human rights. Neither politics nor law can be considered in isolation: political will is needed to secure the drafting and adoption of international instruments; political will is also a factor in monitoring and enforcing international human rights. However, without law, international human rights would undoubtedly be a less tangible, measurable, and enforceable concept than is the case today.

## Introduction

International human rights are now an integral part of public international law. Indeed, there is a strong argument for human rights being regarded as a distinct branch of international law, as respect for human rights is not primarily a characteristic of inter-state obligations, but rather a reflection of the state's undertakings in respect of its population. Acceptance of human rights is a manifestation of a state's acknowledgement of the pre-eminence of the rule of law. This chapter introduces the international legal context of human rights.

All states profess to respect certain international human rights, many of which are explored in detail elsewhere in this book. These rights are normally tabulated in a legally binding format as a **treaty** and are thus easily ascertainable. While their existence (in tangible legal form) is beyond question, their content remains hotly disputed. Every state claims to promote respect for key human rights and fundamental freedoms within its territory, but not all states accept all the tabulated rights and freedoms. Given that there are hundreds of instruments of varying legal force that

purport to enumerate human rights, this is not entirely surprising. From a legal perspective, the most enforceable human rights are expressed in treaties, primarily **multilateral treaties** (i.e. international treaties with several states participating). Nevertheless, there are many examples of human rights that predate such multilateral treaties—these too can be enforceable against states. Moreover, many of these rights are now contained in treaties.

This chapter starts by exploring the origins of human rights law, considering the implications inherent in creating international human rights law. The seismic shift this reflects (and caused) in the conceptualization of international law will be highlighted. Tragic events around the world have frequently proved to be the prompt for articulating international human rights. Such a manifestation of political will is a crucial factor in ensuring the success of human rights: without consensus, no treaty can become 'law', be embedded into normal state practice, or be internationally monitored or enforced.

Following this overview of the evolution of international human rights law, the emphasis will move

### BOX 4.1 FINDING INTERNATIONAL HUMAN RIGHTS LAW ONLINE

In the twenty-first century, engaging fully with international human rights law demands the use of online sources. All primary sources are freely available online in several languages. Once familiarity with the principal websites is achieved, it is possible to research any aspect of basic human rights. Space constraints restrict this guide to the official UN portal:  
<http://www.ohchr.org>

The main website is that of the UN Office of the High Commissioner for Human Rights. Information can be found through a variety of routes—*quick links* on the right hand side of the home page take you directly to many relevant sites.

From the home page, note the following links from the top banner:

#### Your human rights

This links to *International law*, which in turn has a link to *The core international human rights instruments*, a hyperlinked list of the full text of all the principal UN human rights treaties, instruments, codes, and guidelines. A quick link to *Human rights instruments* is also available at the right-hand side of the home page. It links to the same page. This is the main primary source that you will require.

#### Countries

This links through *Human rights in the world* to a map and an alphabetical list of member states. For each country, you can obtain information on contracting status (ratifications, reservations, and derogations) as well as recent Special Procedures reports and concluding observations of treaty monitoring bodies.

#### Human rights bodies

This links to a portal for all the UN Charter and treaty monitoring bodies. It also has a link to the material on treaty body reform and the treaty body strengthening process. Each treaty monitoring body has its own page from which you can access the relevant treaty, reporting guidelines, committee information, the reports of each state to the committee, the concluding observations of the committee thereon (through *Sessions*), and general comments and recommendations of the committee.

#### Publications and resources

This links to *Publications* that give access to a variety of useful electronic publications on human rights, including *Fact sheets* and *Special issue papers*.

to elaborating the principal sources of international human rights law. The various forms of expressing human rights will be considered before identifying the core international human rights instruments. As will be apparent, even when a state accepts a particular human rights treaty, it can still avoid full legal responsibility by a variety of legal means. These are important as they impact, sometimes considerably, on the extent of a state's obligations.

While articulating lists of human rights has some merit in itself, ensuring that the rhetoric of the law is transformed into a practical reality is a major issue. Accordingly, attention will then move to the institutional framework, identifying the mechanisms for monitoring and enforcing human rights. Once more, political will is a factor in monitoring and enforcing international human rights. Are human rights enforceable in law? Most importantly, can an individual actually claim that a state has infringed his or her human rights? (See Box 4.1 for a guide to finding international human rights law online.)

## Historical Evolution of International Human Rights Law

This section will outline the evolution of human rights, particularly charting the reincarnation of philosophical ideals as international laws (treaties). The next section will then consider the sources of contemporary international human rights law. There is evidence of laws and policies that ensured respect for some rights of individuals many centuries ago. Most religious texts promulgate certain rights and freedoms of followers, assuming they adhere to the codes for life enshrined in the tenets of the faith. **Enlightenment** philosophers also contributed to the development of human rights theories (see Chapter 1), although there are many examples of non-Christian philosophical contributions that help rebalance the alleged Eurocentricity of human rights' origins. Human rights have a long history, much of which is rarely discussed today (Burgers, 1992). What is beyond doubt is that the majority of legally binding instruments (treaties) that form the body of modern human rights law emerged during the twentieth century—although these were not the first treaties on international human rights. Early examples of 'human rights' instruments focused on the abolition of slavery, humanitarian law, and minority protection guarantees.

Following this brief review of early examples of human rights agreements, contemporary international human rights instruments will be discussed.

### Abolition of Slavery

Slavery is now universally condemned, all states having outlawed it. Its prohibition is an obligation owed by all states to the entire international community (on such obligations, see *Barcelona Traction Case (Belgium v. Spain)* (1970), ICJ Reps 32)). Some two hundred years ago, the UK and the USA claimed to begin the end of the slave trade by enacting national legislation prohibiting trade in people. Over the next sixty years, a series of **bilateral treaties** (legally binding agreements between two countries) was concluded between the UK and other states by which the two states involved agreed to prevent their subjects from engaging in the slave trade (see Martinez, 2008). In 1815, the international Congress of Vienna deemed the slave trade repugnant. Under the auspices of the **League of Nations**, a Slavery Commission was established and a 1926 Slavery Convention adopted (League of Nations, 1926). This was followed in 1956 by the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery. Despite this, modern incarnations of slavery remain, with human trafficking and forced labour being the most obvious examples. Human trafficking in particular appears to be a growth industry which various modern treaties and transnational initiatives seek to suppress in the twenty-first century (see Chapter 16).

### Humanitarian Law and the Laws of War

**Humanitarian law**—agreements on the conduct of hostilities—also emerged comparatively early in the history of international human rights law. These agreements have as their goal the 'civilization' of conflict by ensuring that only enemy agents could be targeted, and that civilians are thus protected. Agreements also related to the types of killing to be deployed (humane deaths). Today, this body of law is still in existence. The Hague 1907 laws of war and the **Geneva Conventions and Protocols** of 1949 and 1977, respectively, are the most famous examples; more recent agreements include a ban on landmines and the Convention on Cluster Munitions, which was opened for signature in December 2008.

Individual legal responsibility arises for those who fail to respect the rights of combatants under these treaties. This was evidenced in the Tokyo Tribunal and the **Nuremberg Tribunal** following the Second World War. Those defeated leaders found responsible for mass violations of human rights were tried and sentenced (usually to death). Following a spate of special courts and ad hoc tribunals focusing on criminal justice, the **International Criminal Court (ICC)** was established by a treaty—the Rome Statute on the International Criminal Court—in 1998. The ICC has competence to investigate and consider war crimes and violations of humanitarian law when the national courts are unable or unwilling to do so. Violations of other human rights, in contrast, cannot be prosecuted in the court (as we will see).

Although closely related, humanitarian law and international human rights have evolved as discrete areas of law and policy. Human rights apply generally: the state is required to respect the declared and accepted human rights of all. Humanitarian laws, in contrast, are essentially minimum rights that must be respected during proclaimed emergencies or conflicts (see Chapter 21). Violations of international humanitarian law may result in individual prosecutions, whereas violations of general human rights will not, as liability rests with the state. Contemporary prosecutions include: Radovan Karadzic before the International Criminal Tribunal for the Former Yugoslavia; Charles Taylor's conviction by the Special Court for Sierra Leone; and Kaing Guek (Duch) Eav's conviction by the Extraordinary Chambers of the Courts of Cambodia.

### Minority and Labour Rights

There are also historic minority protection regimes—for example, the 1878 Treaty of Berlin accorded special status in law to specified religious groups. Prior to this, 'aliens' (foreigners) were only accorded minimum rights and freedoms, based on the idea that an injury to an individual was tantamount to an injury to the individual's state of nationality. **Reparations**, or remedies for loss or damage suffered, could be sought. In the early twentieth century, there was a focus on ensuring the peaceful coexistence of peoples within states in the wake of the First World War—hence the minority guarantee treaty regimes instigated by the League of Nations and the creation of the **International Labour Organization (ILO)**. The former sought to ensure respect for religious or linguistic minorities who found

themselves in a 'foreign' state due to the redrawing of Europe's boundaries and/or the redistribution of the overseas territories of the defeated countries. The latter sought to regulate labour, assisting with rebuilding the economies of countries decimated by war, and ensuring fair working conditions for all.

In the aftermath of the collapse of the League of Nations and the Second World War, the international community had to rethink its approach to the maintenance of peace, law, and order. Although the ILO survived intact from this tumultuous period between the two World Wars, its minority protection system was discontinued; the newly established United Nations elected to focus on universal human rights, thereby obviating (it was hoped) the need for special minority guarantees. Despite the change in focus, minority groups (whether ethnic, religious, linguistic, or other) are all too often in a weaker position than majority groups in any given state. Still, with the emphasis on equality in international human rights, remedies may be available for such individuals, eliminating oppression and discrimination.

Contemporary human rights law has early antecedents, traces of which survive to the present day. The following section will examine the mechanisms for establishing binding obligations on states to protect human rights; thereafter the parameters of modern human rights law will be outlined.

#### KEY POINTS

There are early examples of international agreements on human rights issues.

Efforts to abolish all forms of slavery today focus on proscribing those practices analogous to slavery.

International humanitarian law and the laws of war have early origins. The formal laws were negotiated between the warring states and governed hostilities. Today, these laws are found in the Hague and Geneva conventions and associated instruments, and apply to most conflicts.

#### Critical Thinking Questions:

Do the origins of human rights outlined above indicate a global North or Western bias, as some commentators suggest? What evidence is there of human rights in early Buddhist, Confucian, Hindu, or Islamic writings and teachings? Are human rights really just a 'moral code' for the functioning of society?

## Sources of International Human Rights Law

As with any area of law, it is necessary to establish what the building blocks are, to know ‘where to find the law’. International law is a little different from national law in this respect—there is no single legislature passing laws that must be obeyed. Rather, there are various organizations from which treaties emanate and various other agreements made by states of their own volition. On top of this, there is a mass of additional materials that outlines and informs international law. In this section we will consider the key sources of international human rights law.

### Treaties

Treaties are probably the closest thing to recognizable (in the national sense) law in international law. They are, for the purposes of human rights, written down and agreed by states. In this way, treaties are most obviously ‘international legislation’. States have to ‘agree’ to treaties. They indicate their agreement through signature (generally a political act) followed by ratification (the legal act). For students, the most comprehensive guide to treaty law is the partial codification (collation of existing laws and practices) and partial progressive development (evolution of new law) of the pre-existing law found in the Vienna Convention on the Law of Treaties 1969. This treaty contains detailed (technical) guidance on the creation, dissolution, meaning, and enforcement of treaties. Not all states agree to its terms, but many do, and parts of the treaty represent customary international law (as we shall discuss).

Treaties contain statements of law. They can be broadly compared to legislative acts. The treaty specifies the legal obligation of the state, an obligation that can be enforced. Not all obligations are negative, requiring states simply to refrain from doing something; some are positive, with states obliged actively to do something to respect the right in question—passing homicide and assault laws to help ensure respect for the right to life is an obvious example. The state would not be directly at fault if an individual killed another individual, but nevertheless attracts responsibility if there is no national homicide law that can be invoked. For example, in *Ng v. Canada* (UN Doc. CCPR/C/49/D/469/1991—Human Rights Committee), the USA requested the extradition of Ng to stand trial for various counts of capital murder and other crimes in

#### BOX 4.2 CHALLENGING ASSUMPTIONS: BORDERS AND HUMAN RIGHTS

Many states rebut responsibility for violations which occur outside their territory. Should Canada have been found responsible in *Ng v. Canada*? Should a state be responsible for the actions of members of its military forces acting in their private capacity overseas (torture, food deprivation, physical and sexual assaults)? Should foreigners be able to claim asylum on the basis that the standard of medical care in their home state is much lower than in the state where they are claiming asylum?

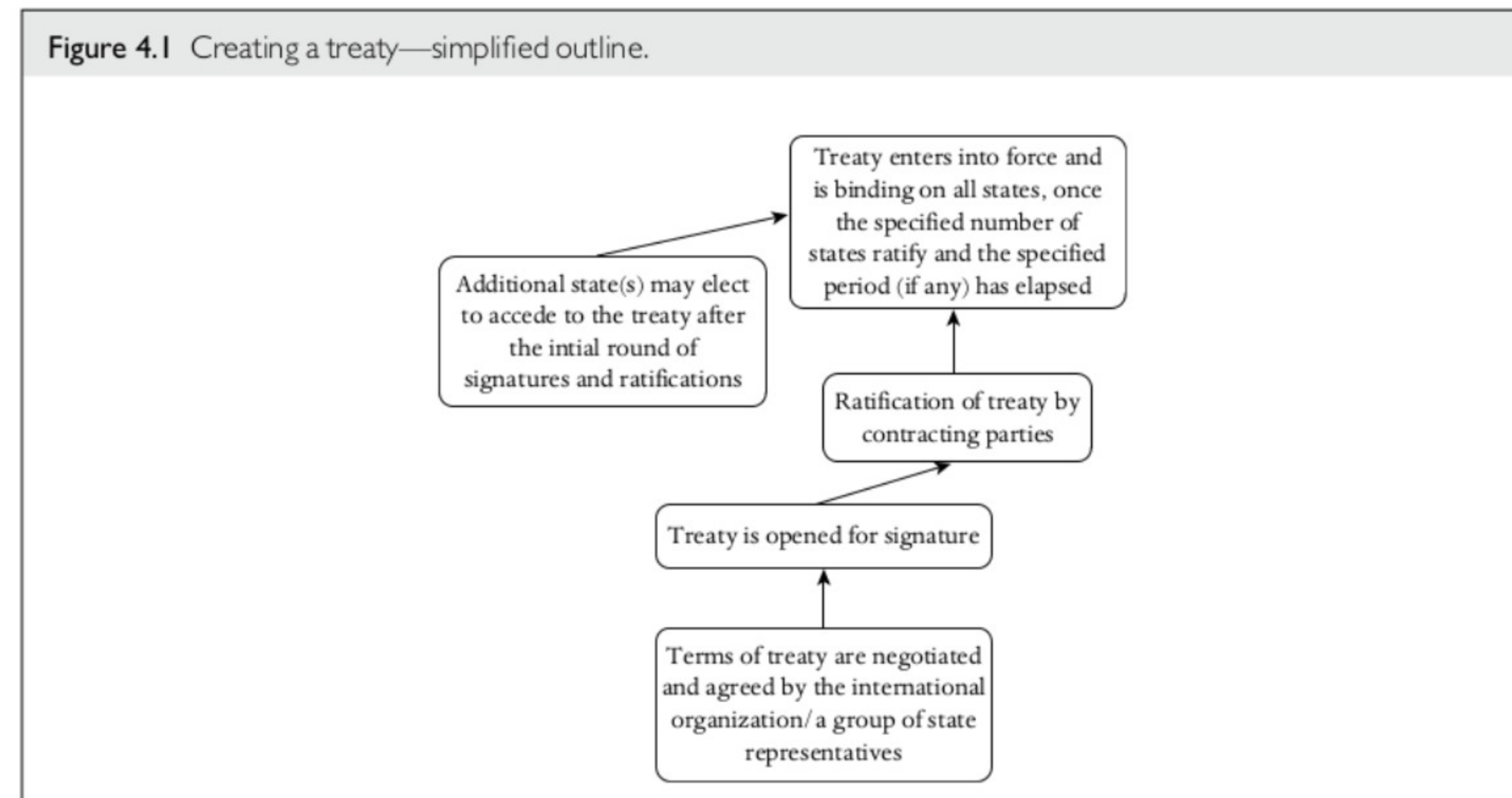
California. Although the Canadian Supreme Court considered extradition not to infringe Canada’s obligations, the *UN Human Rights Committee* (which monitors implementation of the **International Covenant on Civil and Political Rights** (ICCPR)) concluded that the resultant execution by gas asphyxiation, the penalty if convicted, was cruel and inhuman treatment in violation of Article 7. Clearly, Canada was not directly responsible for this, but its decision to extradite had a foreseeable consequence (an infringement of human rights). Such positive obligations have significant consequences for states when contemplating extradition, deportation, or asylum (see Box 4.2). Undertakings not to torture an individual or not to impose the death penalty are often required in advance.

Obviously treaties can have far-ranging consequences for states. They are legal obligations that should not be undertaken lightly. States can elect, through treaties, to alter aspects of their territorial **sovereignty** (e.g. Advisory Opinion on *Nationality Decrees Issued in Tunis and Morocco* (1922), PCIJ Series B, No. 4). This is noteworthy as many states claim that international human rights law impinges on their internationally protected (e.g. under the UN Charter) and virtually sacrosanct national sovereignty. There are, however, many reasons not related to law or sovereignty that states agree to treaties. Irrespective of the reason, states agreeing to international human rights law have agreed to any limitation on their sovereignty flowing therefrom.

#### How does a State Signify Acceptance of a Treaty’s Terms?

Just as with contracts under national law, states must agree to be bound by a treaty (see Figure 4.1). Treaties are concluded in writing; thus a state has to indicate its consent to be bound by the signature of the Head of State or appropriately authorized representative. At

Figure 4.1 Creating a treaty—simplified outline.



this stage, the state is a signatory to the treaty. Most human rights treaties can have a large number of state parties. Article 18 of the Vienna Convention on the Law of Treaties stipulates that states should act in accordance with the terms of a treaty during the period between signature and ratification. That is not, however, the end of the matter. Generally, a state confirms its consent by **ratification** or acceptance of the treaty. This usually follows state-specific national procedures. The instrument of ratification should be deposited with the specified body, usually the UN Secretary General's office, for communication to other **contracting states**. Treaties usually specify a minimum number of ratifications necessary for the treaty to enter into force.

As commentators like Bayefsky (2001) note, some states may ratify a treaty as a political act, to enhance their reputation or placate critics, without having any intention of complying fully. The use of reservations (as we shall see) aids this. Hathaway (2007, p. 592) identifies the potential for domestic legal enforcement of the terms of the treaty and the positive collateral political consequences of the decision to ratify as key incentives for states to commit to international human rights treaties.

#### Reservations and Declarations after Ratification

Even if a state does elect to ratify a human rights treaty, there are a number of legal ways in which a state can avoid responsibility for its terms. States may enter reservations and declarations either on ratification or at any time thereafter. These are statements of intent entered by the state and communicated to

other parties to the treaty. In effect, they provide a mechanism for a state to opt out of the provision in question, either partly or in whole. A simple **reservation** may exclude liability for a specific article of the treaty. More controversial are those that seek to pervade the entire treaty—for example, Saudi Arabia's statement on ratification of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) that, in the event of a conflict between the Convention and Islamic law, the Kingdom would not be obliged to follow the Convention. Although objected to by a number of European states, the Saudi reservation remains in force.

International law treats reservations that are incompatible with the object and purpose of the treaty as void (ineffective). This view is derived from the opinions of the **International Court of Justice (ICJ or World Court)** in the Genocide Case (1951, ICJ Reps 15) and of the Human Rights Committee (1994). While the argument that states should not be able to opt out of fundamental human rights has merit, for states the process can be more complicated. Thus the USA's reservation transmitted on ratification of the ICCPR: 'That article 20 does not authorize or require legislation or other action by the United States that would restrict the right of free speech and association protected by the Constitution and laws of the United States.' This reservation is potentially problematic as Article 20 provides that any propaganda for war shall be prohibited by law and any advocacy of national, racial, or religious hatred that constitutes incitement to

discrimination, hostility, or violence shall be prohibited by law. However, for the USA the freedoms protected by its Constitution take precedence.

States can also make **declarations** upon ratification, or subsequently. These may simply be political statements regarding, for example, non-recognition of certain states that have ratified the treaty (e.g. the statement made by China on ratifying the **International Covenant on Economic, Social and Cultural Rights** (ICESCR) regarding Taiwan: 'the signature that the Taiwan authorities affixed, by usurping the name of 'China', to the [said Covenant] on 5 October 1967, is illegal and null and void').

The terminology employed is irrelevant; it is the effect of the statement that is important (Human Rights Committee, 1994, paragraph 3). This was famously demonstrated in a communication before the Human Rights Committee brought after France had 'declared' that it did not recognize minorities and thus a claim of a linguistic minority person could not be considered by the Committee (*Guedson v. France*, UN Doc. CCPR/C/39/D/219/1986).

Reservations constitute a significant problem for proponents of universal human rights. While states will sign and ratify treaties, the efficacy of their actions can be undermined by reservations entered to negate key provisions. Although the concept of reservations

appears inconsistent with that of human rights treaties, little action is taken against states entering and maintaining reservations other than to encourage a re-evaluation of the reservation's necessity. This is a perennial problem with a consensus-based system such as international law—it is generally regarded as preferable to have states at least try to conform to the international standard rather than to have states withdraw from the framework of international monitoring. Since international treaty law is basically consensual, the goal of universal ratification of core international human rights instruments is perhaps unrealistic without the benefit of reservations (see Box 4.3).

#### Derogations During a State Emergency

**Derogations** allow states to avoid all responsibility for violations of certain human rights during emergency situations. Most importantly, there are some human rights from which states may never derogate—non-derogable rights include freedom of thought, conscience, and religion, and the prohibition on torture (see, for example, Article 4(2), ICCPR). Each treaty stipulates whether derogation is possible and, if so, from which provision(s). Some treaties do not permit derogations (e.g. ICESCR, due to the nature of those rights—we will go on to discuss the African Charter on Human and Peoples' Rights).

#### BOX 4.3 ALTERNATIVE POINTS OF VIEW ON UNIVERSAL RATIFICATION OF THE CORE HUMAN RIGHTS TREATIES

For a great many states ratification has become an end in itself, a means to easy accolades for empty gestures. The problem has arisen in part because of a deliberate emphasis on ratification.

The primary goal of the UN community has been to achieve universal ratification of the human rights treaties. The underlying belief is that once universal ratification is realized, the implementation techniques can be strengthened. Once committed to participation, states will find it difficult to pull out and will find themselves ensnared in an ever-expanding network of international supervision and accountability.

In the meantime, ratification by human rights adversaries is purchased at a price, namely, diminished obligations, lax supervision, and few adverse consequences from non-compliance. The cost of membership has been deliberately minimized.

(Bayefsky, 1996)

The emphasis upon promoting universal ratification is an essential one in order to strengthen and consolidate the universalist foundations of the United Nations human rights

regime. Despite the fears of some critics, the quest for universal ratification need not have any negative consequences for the treaty regime as a whole.

(Alston, 1997, paragraph 23)

There is clear evidence ... that states with strong domestic institutions and poor human rights records are less likely to join human rights treaties than states with weaker domestic institutions that have similar records. That is true even though democracies as a whole—which realize more domestic collateral benefits from membership than non-democracies, because the constituencies favouring human rights treaties tend to be stronger—are more likely to join human rights treaties. Moreover, consistent with the prediction that collateral incentives are at work, newer regimes, which stand to gain larger collateral benefits from treaty membership, have a higher likelihood of joining human rights treaties. Also consistent with the approach, states in regions with higher levels of human rights treaty commitment are themselves consistently more likely to join those treaties.

(Hathaway, 2007, p. 613)

Measures justifying derogation must be of a temporary and exceptional nature. Generally, the emergency must pose a genuine threat to the existence or stability of the state and the state must have legally proclaimed a state of emergency. The UK has a notable history of entering lengthy derogations, claiming justification on the basis of the perceived threat from terrorists in Ireland and Northern Ireland in the latter part of last century.

The power to derogate should be limited to extreme situations. It is not a way for states to avoid human rights obligations. Moreover, even in emergency situations, human rights remain crucially important and international humanitarian law still applies. In times of war and other emergencies, human rights are more likely to be threatened and respect for them should therefore be regarded as more, not less, important.

#### Towards an International, Interdependent, and Indivisible System of Human Rights

Having outlined the process of becoming bound by a treaty, it is now appropriate to identify the legal

obligations assumed by the states under the key international human rights treaties and to consider why there are so many treaties and other instruments.

At present, there are nine core international human rights instruments, concluded under the auspices of the United Nations (see Box 4.4). The most widely accepted treaty is the Convention on the Rights of the Child. Every UN member state, save the USA, South Sudan, and Somalia, has ratified it (on the USA and non-ratification, see also Chapter 17). Most UN states have agreed to be legally bound by several of these core treaties. They thus agree to respect the stipulated rights of individuals, protect those rights in law, and take all necessary measures to fulfil their treaty obligations.

Even in the era of the United Nations, drafting international human rights instruments proved initially to be a tortuous process. While agreement on punishing **genocide** was relatively easily reached as details emerged of the Holocaust in Europe during the Second World War, agreement on universal human rights proved more problematic. The former Commission

#### BOX 4.4 PRINCIPAL INTERNATIONAL HUMAN RIGHTS INSTRUMENTS (UN)

##### UN Nine Core Human Rights Treaties (note several have additional optional protocols containing further rights and/or individual communication or investigation regimes)

1. International Convention on the Elimination of All Forms of Racial Discrimination 1965.
2. International Covenant on Civil and Political Rights 1966.
3. International Covenant on Economic, Social and Cultural Rights 1966.
4. Convention on the Elimination of All Forms of Discrimination against Women 1979.
5. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment 1984.
6. Convention on the Rights of the Child 1989.
7. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990.
8. Convention on the Rights of Persons with Disabilities 2006.
9. International Convention for the Protection of All Persons from Enforced Disappearances 2006.

##### Other Key United Nations Instruments

Convention Relating to the Status of Refugees 1951 (and 1967 protocol).

Standard Minimum Rules for the Treatment of Prisoners (ECOSOC) 1957.

Code of Conduct for Law Enforcement Officials 1979 (General Assembly (GA) Resolution 34/169).

Declaration on the Right to Development (GA Resolution 41/128).

Declaration on the Rights of Indigenous Peoples 2007 (GA Resolution 61/295).

##### The International Labour Organization's Eight Fundamental Treaties

Convention No. 29 on forced labour 1930.

Convention No. 87 on freedom of association and protection of the right to organize 1948.

Convention No. 98 on the right to organize and collective bargaining 1949.

Convention No. 100 on the issue of equal remuneration 1951.

Convention No. 105 on the abolition of forced labour 1957.

Convention No. 111 on discrimination (employment and occupation) 1958.

Convention No. 138 on minimum age 1973.

Convention No. 182 on worst forms of child labour 1999.

**BOX 4.5 CHALLENGING ASSUMPTIONS: HIERARCHIES OF RIGHTS?**

Are some rights more important than others? During the **Cold War**, a devastating polarization of attitudes towards human rights emerged. Communist states and many newly independent and developing states considered that rights pertaining to existence, such as rights to adequate food, shelter, education, and work were pre-eminent, while many older (Western) democracies emphasized civil and political rights such as free speech, the right to fair trials, etc. The two treaties are characterized by different obligations. The ICESCR requires states to realize the rights progressively, to the maximum of their available resources (Article 2(1)), while the ICCPR demands instant respect for its rights and provision of national remedies for violations (Article 2).

Critics argue that it is incompatible with the notion of universal human rights to have rights which are achieved progressively. Others argue that these rights (food, education, social security, work) should not necessarily be viewed as state functions. However, the millennium development goals (and the post-2015 agenda) emphasize the necessity of continually enhancing provision of basic economic and social rights (including food and healthcare). Without such basic needs, life itself is threatened. Other critics argue that economic and social rights are more expensive for states to realize—consider, however, the cost of establishing a full independent judicial system, or of training police in detention regulations and building appropriate detention facilities for use pre- and post-trial. It is clear that many rights and freedoms have explicit or implicit cost implications for states.

on Human Rights made great progress in drafting the Universal Declaration of Human Rights (UDHR) 1948, an aspirational tabulation of the fundamental rights and freedoms of all. Although the United Nations had only 56 member states in 1948, there were 193 member states in 2015, all of whom profess adherence to the UDHR. It is truly a universal declaration today.

The initial plan was for the 'blueprint' set out in the Declaration to be translated into treaty obligations binding on states. Unfortunately, international politics intervened and consensus could not be reached (see Box 4.5). As a result of the tension, the decision was taken to pursue two separate instruments: one focusing on economic, social, and cultural rights, the other on civil and political rights.

However, irrespective of the designation accorded to any given right, human rights are, above all, interdependent, indivisible, and universal. One cannot exercise rights of political participation without benefiting from the economic, social, and cultural right to education, to facilitate an informed choice. Similarly, the civil right to life is devoid of meaning if there is no food or clean water. The two Covenants combine to entrench the breadth of rights and freedoms espoused in the UDHR. Arguably, most of the other treaties and instruments simply elaborate their application.

**Other Sources: Customary International Law and 'Soft' Law**

**Customary international law** is the term applied to the body of rules and regulations that represent accepted state practice. Customary international law is

usually agreed by most or all states, their agreement being signified by compliance rather than written agreement. Some aspects of human rights arguably reflect customary international law. The prohibition on torture and, more especially, the prohibition on slavery are examples. All states accept that slavery is contrary to international law. They are bound to prohibit slavery irrespective of whether or not they have ratified the anti-slavery treaties. More difficult is torture—although all states ostensibly prohibit it, state practice sadly seems to condone varying degrees of torture and related practices (see Chapter 15). It is thus more problematic to consider its prohibition as accepted custom. Other issues arise with definitions—there is no customary law definition of 'torture' and the treaty definition (e.g. Article 1, **Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**) cannot be imputed to obligations of non-contracting states. There continues to be debate over the existence and legal enforceability of customary international law. Given that so few disputes reach the ICJ, which could provide a definitive answer, a satisfactory resolution is not imminent. Moreover, with most states now party to some of the main international human rights treaties, there is less need to rely on customary international law to prove a legal obligation enforceable against the state.

In addition to the foregoing, human rights may also be found in **soft law**. Soft law is the term used to contrast with 'hard' (treaty/customary) law that produces legally binding obligations. Soft law includes a variety of different instruments concluded under the auspices of international organizations. These instruments are

not technically legally binding but do enshrine principles agreed by states. Breaching soft law is not necessarily without consequences, but these are typically political rather than legal. As Shelton (2000) notes, non-binding measures are an increasing feature on the international stage. Examples include the Declaration on the Right to Development and the Standard Rules for the Treatment of Prisoners. Frequently, 'soft law' instruments precede 'hard' law—thus the Universal Declaration was subsequently legally expressed in the twin covenants, and the Declaration of the Elimination of Discrimination against Women (1967) was followed by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979.

Soft law informs the obligations of states but does not define them. Forsythe (2006, p. 13) notes the importance of the full range of human rights 'soft law' in helping to realize non-governmental organizations' (NGO) and foreign policy objectives.

#### KEY POINTS

Treaties are the most common source of international human rights law. They are concluded in writing and states must accept their terms.

States can avoid certain treaty obligations through reservations, declarations, and derogations. However, reservations should not negate the object and purpose of the treaty. Derogations should only be used when absolutely necessary.

Customary international law is a source of international human rights: rights and freedoms regarded as so widely accepted that every state is bound by them.

'Soft law' constitutes another important source of international human rights insofar as it reflects the practice and opinion of states. It can be influential but is not legally enforceable.

Human rights are interdependent and indivisible. Most human rights are co-dependent on other human rights. Human rights thus form a cohesive web of rights and freedoms.

#### Critical Thinking Questions:

Does the existence of reservations and derogations undermine the universality of human rights, or is it simply a practicality to ensure states will agree to accept legal obligations? Would any state currently claiming to be under threat from terrorism be justified in seeking to derogate from treaty provisions? If so, which rights/freedoms and why?

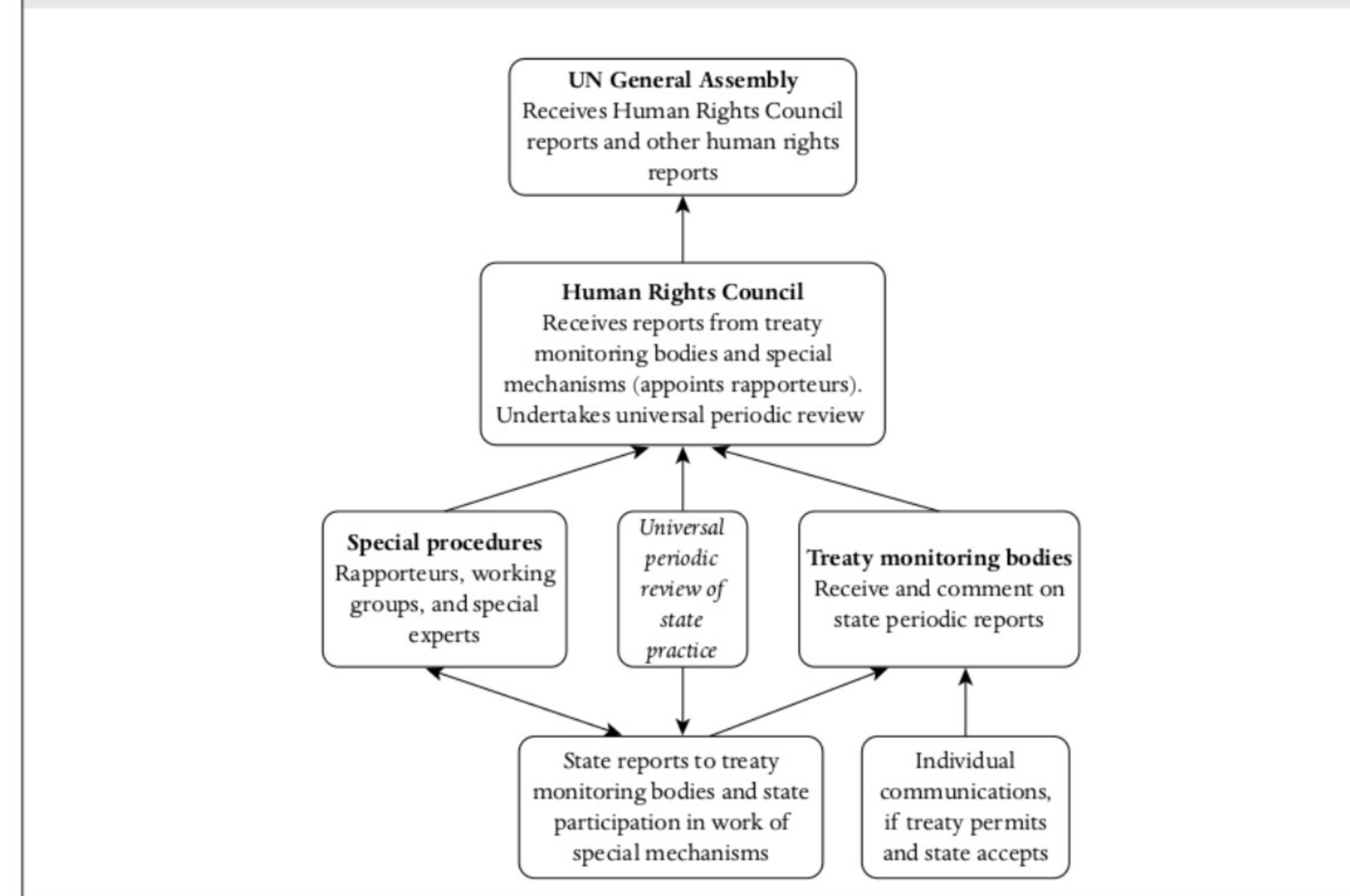
## Monitoring and Enforcing International Human Rights Law

A system of human rights law, as previously outlined, will clearly be of benefit in delineating the parameters of human rights protection and enshrining the entitlements of individuals (and occasionally groups). However, any benefit of having human rights is seriously eroded if those rights cannot be enforced. This section will thus examine the existing mechanisms for monitoring and enforcing human rights. The international system will be outlined first in this section, followed by regional and national systems. Inevitably, less recourse is available for the aggrieved individual at international level than at national level.

### The International (United Nations) System for Monitoring and Enforcing Human Rights

In this section, the UN organs and bodies will be considered first, then the treaty monitoring bodies that oversee the implementation of the nine core human rights treaties. Other UN systems for monitoring human rights will then be outlined. Finally, a brief review of a major growth area of international activity—criminal and **transitional justice**—will complete this section.

The United Nations is clearly the most important source of human rights law. Most of the major treaties are adopted under the auspices of the United Nations or by organizations linked to the United Nations (such as UN Economic, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), or the ILO). More pertinently, the United Nations system has developed a system of monitoring compliance with human rights (see Figure 4.2). Every single member state of the United Nations is monitored by these systems, as will be explained. However, as Tomuschat (2003, p. 7) notes, 'international protection of human rights is a chapter of legal history that has begun at a relatively late stage in the history of humankind'. Moreover, it is a system that exemplifies consensual diplomacy, with all that that entails. States will only actively participate when they feel it benefits them (politically, economically, or diplomatically). If a state feels victimized by the system, it is free to withdraw. There is thus a political balance to be achieved between effective monitoring and not alienating any state from the process. Inclusivity is important.

**Figure 4.2** United Nations human rights system—a simplified version.

#### Primary (Charter) Bodies

The UN Charter and associated legislation includes machinery for monitoring compliance with international human rights law. The principal body with responsibility for monitoring compliance with human rights is the **Human Rights Council** (HRC), which was established in 2006 (see, for example, Oberleitner, 2007; Ramcharan, 2011; Freedman, 2013) following the dissolution of the much-derided Commission on Human Rights, a functional commission of the Economic and Social Council (see Article 61, UN Charter). The main criticisms against the Commission included that it was biased and secretive (e.g. Franck, 1984; Boekle, 1995; Annan, 2002, 2005).

The Human Rights Council is a subsidiary body of the United Nations General Assembly, to which it reports. It comprises forty-seven elected states and is 'responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without any distinction of any kind and in a fair and equal manner' (GA Resn 60/251 at 2; see United Nations General Assembly, 2006). It is imbued with power to undertake a universal periodic review

of the fulfilment by each state of its human rights obligations and commitments. This review was heralded as complementing the work of the treaty monitoring bodies (as we shall see) and not 'overly burdensome' to those involved (Human Rights Council Resolution 5/1 at 3(f) + (h)). Universal periodic review addresses international human rights law and, perhaps more controversially, international humanitarian law. However, not many states elect to comment on humanitarian issues when reviewing other states. As for the information to be consulted: states submit reports; the United Nations Office of the High Commissioner for Human Rights (OHCHR) compiles relevant reports of treaty bodies and special procedures; additional credible and reliable information provided by 'other relevant stakeholders' summarized by the OHCHR may also be used. A dialogue follows, with other states commenting, clarifying, and questioning the state report. The dialogue, including recommendations made to the state and any responses thereto, forms the basis of the final report which the Council adopts.

The HRC also has competence to receive complaints addressing 'consistent patterns of gross and

reliably attested violations' of human rights and freedoms. This procedure draws heavily on its predecessor (the former Commission's 1253/1503 procedure). Human Rights Council Resolution 5/1 of 2007 provides information on the new process, which has three sequential stages: an initial admissibility review by a working group of independent experts; consideration of situations by a working group drawn from Council members; and review and/or action by the HRC. No information on the nature of the complaints or the discussions of the Council will be made public (unless the state consents).

The work of the Council is supported by a range of special procedures (*rapporteurs*)—private individuals, serving in their individual capacity to monitor compliance with human rights in different states through official visits, conceptualize potential developments in human rights, consider claims of violations of rights and freedoms, and articulate and address concerns. These special procedures may be appointed to consider a specific state (e.g. Somalia; Myanmar) or a theme (e.g. extreme poverty and human rights; rights of Indigenous peoples; freedom of religion or belief; or rights of older persons). Their appointments, terms, and conduct are governed by various instruments including a code of conduct (HRC Res 5/1 on institutional building and 5/2 on code of conduct).

The ILO and UNESCO both have distinct systems for ensuring the protection of rights protected by treaties concluded under their auspices. UNESCO also operates a system for considering communications concerning rights within its jurisdiction—primarily, the rights to education and to participate freely in cultural life as well as rights related to freedom of expression and information. Decision 104, EX/3.3 by UNESCO (1978) examines the procedures that should be followed in the examination of cases and questions that might be submitted to UNESCO concerning the exercise of human rights in the spheres of its competence. These proceedings are generally confidential.

Article 24 of the Constitution of the International Labour Organization allows for complaints by industrial associations of employers/workers who are claiming that any of the members has failed to secure effective observance of any convention. This is part of the ILO system for monitoring compliance with its human (workers') rights.

Undoubtedly, there are few remedies available to the individual under the primary international mechanisms. This is perhaps inevitable in an organization

focused on the obligations that states owe each other. The confidential nature of the various systems is consonant with respect for national sovereignty and a reluctance to risk alienating states. All states are encouraged to participate, with a 'light touch' enforcement style being the inevitable consequence.

#### Secondary (Treaty) Bodies

In addition to the foregoing, each of the principal treaties includes a mechanism for monitoring compliance with human rights. This is a secondary system as it is based on the principal treaties and thus only applies to those states that have ratified the treaty in question. All the treaty bodies are centred and serviced in Geneva, home of the OHCHR. The composition of each committee, its powers, and functions are specified in the salient treaty (e.g. for Committee on the Rights of the Child, see the Convention on the Rights of the Child, Articles 43–5). Egan (2011) provides a detailed analysis of these bodies.

Each treaty receives and considers self-evaluative state reports at intervals specified in the relevant treaty or by the Committee. Concluding Observations issued in response to the state reports and deliberations thereon detail good practice and assess state compliance with their obligations. Non-compliance triggers no sanction. All reports are public and available online. Many committees are competent to receive complaints of violations of human rights from one state against another. However, for obvious diplomatic reasons (not least the fear of retribution) these procedures are not utilized. Some committees may undertake visits to states (e.g. Committee against Torture visits detention facilities). The core treaties can each now consider individual complaints. However, states must agree expressly, either contemporaneously with ratification or subsequently, to accept this competence and allow the relevant committee to hear individual complaints. Indeed, some of these procedures are contained in separate instruments (usually protocols) explicitly to emphasize a distinction from the scope of normal treaty obligations. In a conscious attempt to render the complaint system acceptable to states, non-legalistic terms are deployed. Thus communications are transmitted to a committee that considers the material submitted to it and issues an opinion thereon. Considering the number of assenting states, and especially in comparison to the regional systems (as we shall see), there are very few complaints by individuals. Yet surely no one can argue

that this reflects predominant good state practice and contented individuals enjoying the full range of rights and freedoms to which their state has acquiesced!

The international system is often regarded as 'toothless': there is a plethora of international bodies that monitor compliance by states with accepted international human rights, but no real mechanisms for forcing states to honour their treaty obligations fully within their territory. Attempts are being made to streamline the system of reporting, rendering it less onerous on states (e.g. a core report with all the general information supported by treaty-specific information where required, rather than repeating information to different committees). Countering common state complaints should render the monitoring system more efficient. Alston (1997), Annan (2005), and Hathaway (2007), among others, suggest that, with universal ratification of many instruments approaching, improving the effectiveness of treaty obligations is the next hurdle to securing human rights. Political will has been expressed; the rhetoric must now become a reality.

#### Criminal Justice Mechanisms

Despite the idealistic and uniform statements on securing international peace and security that characterized the formative years of the United Nations, civil wars and international conflicts remain all too common, and they entail the violation of human rights. Although international human rights law imposes obligations on states, it is usually individuals who actually infringe rights and freedoms. This is most apparent when war crimes or crimes against humanity are committed. Can these individuals be held to account for their actions?

Following the tragedies of Rwanda and Yugoslavia in the 1990s, demands for ascribing criminal responsibility strengthened. Ad hoc international tribunals were established by resolutions of the United Nations Security Council to try those involved in the atrocities. Similar, self-funded tribunals and courts were created (e.g. Sierra Leone, Cambodia, and Indonesia) with varying degrees of involvement of the United Nations. Ultimately, the international community established a permanent International Criminal Court (see Box 4.6), with jurisdiction to prosecute individuals allegedly involved in violations of international criminal law (see Cassese, 2003). The relevant treaty (Rome Statute of the International Criminal Court) only applies to

#### BOX 4.6 DECONSTRUCTING WORLD COURTS AND JURISDICTION

The International Court of Justice is often referred to as the World Court. It has jurisdiction over all international disputes referred to it by states. Individuals cannot bring complaints to the court. The ICJ can also issue advisory opinions on matters of international law.

The International Criminal Court has jurisdiction only over international criminal law violations which take place in states which have ratified the Rome Statute, and which have occurred after the Statute has entered into force for that state. Individuals allegedly responsible for atrocities are prosecuted in this court and, if convicted, can serve custodial sentences.

Many commentators (e.g. Nowak, Buergethal) posit the creation of a new world human rights court which could hear complaints brought by individuals and groups against states concerning any human rights treaties that the relevant state has ratified. This would work with the treaty bodies. However, this option is not popular with states.

those states that accept its jurisdiction. The Rome Statute details all crimes within the jurisdiction of the court—Chapters 20 (Genocide) and 15 (Torture) in this book address two examples. Cases can be referred to the ICC by the Security Council of the United Nations (e.g. Sudan), by states themselves when they are unable (or unwilling) to prosecute (e.g. Uganda, Central African Republic), or by the Office of the Prosecutor as a result of investigations (e.g. Kenya). The ICC is effectively a last resort for bringing to justice individuals who commit specified heinous crimes. The first trials are only just concluding, so it is too early to assess its effectiveness. Still, the Court's very existence represents a significant achievement and addition to international humanitarian and human rights laws.

The emphasis in the international courts and tribunals is on prosecuting those higher up the chain of command. Slobodan Milošević (former President of Yugoslavia) was on trial for genocide and other war crimes at the ad hoc International Criminal Tribunal for the former Yugoslavia when he died in 2006 (*Prosecutor v. Milošević*, Case IT-02-54, incomplete). Previously, in Arusha, Tanzania the former Prime Minister of Rwanda, Jean Kambanda, was the first senior official convicted on counts of genocide (*Prosecutor v. Kambanda*, 4 September 1998, Case ICTR

97-23-S, upheld *Kambanda v. Prosecutor*, 19 October 2000, Case ICTR 97-23-A). This century, the ICC issued an arrest warrant for the then President of Sudan, Omar al Bashir, in connection with events in Darfur. There are also charges against William Samoei Ruto, suspended Minister for Higher Education, Science and Technology, and others in connection with the post-election violence in Kenya (2007–8).

### Regional Human Rights Systems for Monitoring and Enforcement

Alongside the UN human rights system are a number of regional human rights systems. These are international systems, created by treaties and agreed by states. Even the rights and freedoms contained in the regional treaties bear striking similarities to those articulated in the UDHR and subsequent instruments. According to their proponents, there are many advantages to regional human rights arrangements. 'Peer pressure' is more likely to prompt a state to comply with human rights obligations within a smaller regional setting (though some regional systems have over fifty members, making that an increasingly moot point). Furthermore, the regional systems can enshrine a system of rights and freedoms that reflects regional characteristics. Nevertheless, similar rights appear in each instrument, although the African system uniquely includes collective 'peoples' rights' as well. Africa, the Americas, and Europe have adopted numerous treaties on human rights; the following brief discussion merely highlights the key arrangements of the principal regional systems.

The Organization of American States (OAS) is one of the oldest regional organizations. Its American Convention on Human Rights was, however, only adopted in 1969. This establishes a court to adjudicate disputes and allows the pre-existing American Commission on Human Rights to consider human rights infringements. The Commission can also be seized of complaints brought by individuals against states that have not ratified the Convention (e.g. *Mary & Carry Dann v. United States of America* (2002), Report 75/02).

The **Council of Europe** was established in 1949, after the OAS, and adopted its Convention for the Protection of Human Rights and Fundamental Freedoms in 1950. The treaty is restricted to a narrow band of civil and political rights, although the Council later

adopted a Social Charter listing social and economic rights. Today, a **European Court of Human Rights** sits permanently, with competence to consider individual complaints brought by individuals against member states concerning any of the rights and freedoms in the European Convention (not Charter) and associated Protocols. It has heard two inter-state complaints (*Ireland v. UK* (1979), Series A, No. 25 and *Cyprus v. Turkey* [2001], ECHR 331) and over 100,000 individual complaints. The European Court officially supervises national conformity with human rights (another organ oversees observance of the Court's judgments). While national courts and governments retain primary responsibility for enforcing human rights, the jurisprudence of the Court is widely complied with by governments and is influential worldwide.

The African Charter on Human and Peoples' Rights (1981), more than any of the other regional systems, claims to reflect a distinctive regional set of values, giving an African 'spin' to pre-existing human rights. The Charter initially established a Commission to monitor compliance and had competence to receive individual and group complaints. These powers are being extended to a new Court created under the auspices of the African Union (which succeeded the Organization of African Unity).

In the countries of the League of Arab States, a revised Arab Charter on Human Rights entered into force in 2008 with a Committee receiving reports on progress made towards realizing human rights.

In South East Asia, the Association of South East Asian Nations (ASEAN) has adopted a human rights declaration but no formal monitoring mechanism.

### National Human Rights Systems for Monitoring and Enforcing Human Rights

States, as signatories of international human rights treaties, have primary responsibility for ensuring those rights and freedoms within their territory. The obligation to protect human rights thus falls clearly on the state, but enforcement of human rights at the regional and international level remains open to criticism. States are all too often reluctant to accept the jurisdiction of international and regional bodies to receive complaints from individuals. However, some succour may be gleaned from national laws. It is ideal if individuals enjoy successful recourse to national law when human rights are infringed as the state can or should be able to remedy the raised problem swiftly.

National courts can also be used in the prosecution of violations of certain serious human rights.

#### National Courts: Universal Jurisdiction and Rights of Action

In terms of the core human rights treaties, states undertake to ensure that the human rights specified in the treaty are secured and guaranteed for all citizens within their jurisdiction. Most states have written constitutions, many of which enshrine human rights. An early example is the French Constitution of 1791, which included the 1789 Declaration of the Rights of Man and of the Citizen as its preamble. More recent examples are the Canadian Charter of Rights and the South African Constitution. There is usually a court empowered to review the compatibility of national law and policies with human rights. States may adopt a monist or dualist approach to treaties whereby treaties are, respectively, automatically part of national law or treated as external to national law. Creating a system whereby individuals can seek redress for violations of international and regional human rights at the national level is imperative to the success of international human rights law when the international systems appear impotent and some regional systems overburdened. There have been some successes with individuals and groups taking action in North American and European states against multinational enterprises headquartered there which are claimed to have violated rights in Asian and African states.

Additionally, violations of some human rights (e.g. torture, slavery, and genocide) are universal crimes and subject to **universal jurisdiction**—that is to say, the perpetrators can be tried anywhere in the world, irrespective of their nationality, that of the victim, or the state in which the violation occurred. Faryadi Zardad, an Afghan warlord, was convicted in the UK of conspiring to torture and kidnap in Afghanistan under the Taliban regime (first instance unreported, on appeal *R v. Zardad* [2007], All ER (D) 90). The USA has also expressed willingness to consider torture under national law (see *Filartiga v. Pena-Irala* 1980F. 2d 876 (2d cir) and Chapter 15). There should be no hiding place for those perpetrating atrocities.

#### National Human Rights Institutions

Given the lack of mechanisms available at the UN level and the costs and difficulties involved in engaging with the regional systems, it should be no surprise that the system of international human rights is predicated on

the concept of national human rights institutions. The *Paris Principles* (see United Nations General Assembly, 1993; OHCHR, 1993) guide the international community as to what the powers, functions, and composition of a national human rights institution should be. National institutions are discussed in more detail in Chapter 5.

The systems that exist for protecting and promoting international human rights law are clearly fallible. However, in little over fifty years, a dramatic new web of mechanisms for monitoring and enforcing rights has created a paradigm shift in how individuals are viewed on the international stage.

#### KEY POINTS

No set of laws (international, regional, or national) can be developed and enforced without the will of the states concerned.

The United Nations has created a comprehensive system of bodies with responsibility for monitoring compliance with international human rights law. Their effectiveness depends on state cooperation in various 'constructive dialogue' processes.

The Human Rights Council has significant powers to review all state activities under its universal periodic review process. Treaty monitoring bodies have evolved over the years to become more proactive proponents of human rights, though they are dependent on the enabling treaty for their powers.

Criminal justice poses a new challenge for the international community. The International Criminal Court is one mechanism that seeks to ensure that those who seriously violate human rights can be held to account.

Regional systems operate alongside, not instead of, international human rights systems. These can be more successful at ensuring compliance with human rights having courts and/or commissions with competence to receive individual complaints against states.

#### Critical Thinking Questions:

Is the international system 'toothless' when it comes to protecting the rights of individuals against the actions of the states in which they find themselves? What alternative or additional enforcement mechanisms could work in the international arena? Are your suggestions likely to be acceptable to states, or is there a mechanism for imposing them on states?

## Conclusion

As this chapter has demonstrated, states generally indicate their acceptance of international human rights law by agreeing to treaties. However, there are a number of ways in which states can avoid the full impact of such legal obligations: reservations, derogations, and declarations. Politically, states find adopting human rights a positive experience; legally, there are many ways they can avoid full legal responsibility for the rights and freedoms accepted. The existing mechanisms for monitoring human rights adopt

a 'light' touch, encouraging states to comply with treaties through a constructive dialogue rather than forcing them through any court process. In contrast, individuals committing war crimes can be prosecuted anywhere. The 'common standard of achievement for all peoples and all nations' proclaimed sixty years ago in the Universal Declaration of Human Rights is not yet a reality. Nevertheless, without law, international human rights would be a less tangible, measurable, and enforceable concept than it is today.

### QUESTIONS

#### Individual Study Questions

1. What is the process followed for a state wishing to be bound to the provisions of a treaty?
2. What are the benefits of listing human rights in treaties?
3. What is the effect of a reservation on a state's legal obligations under a treaty? Can you find examples of reservations that seek to defeat the object and purpose of the treaty?
4. What is meant by interdependent and indivisible rights? Can you give some examples of this interdependence?
5. Why are the principal UN human rights treaties monitored through committees rather than courts? What benefits does such a system bring?
6. Research your state's ratification record, regional, and national human rights arrangements. What treaties have been ratified? Are there significant reservations or declarations? Can you directly action infringements of international human rights in national courts?

#### Group Discussion Questions

1. To what extent should the enforceability of treaties be prioritized over securing a high number of ratifications? (This is a debate that Alston and Bayefsky instigated in the 1990s.)
2. Should human rights be aspirational standards of achievement for states to strive for, or should they be clearly articulated and enforceable against each and every state under national and/or international law?
3. Examine news reports over a set period of time. Identify human rights stories. Are the human rights issues correctly identified and appropriately explored?

### FURTHER READING

**Alfredsson, G.** and **Eide, A.** (eds) (1999). *The Universal Declaration of Human Rights: A Common Standard of Achievement*. The Hague: Martinus Nijhoff.

This text comprises a series of chapters in which experts analyse the impact of each of the rights and freedoms contained in the Universal Declaration.

**Hathaway, O.** (2002). Do treaties make a difference? Human rights treaties and the problem of compliance. *Yale Law Journal*, **111**, 1932–2042.

Qualitative analysis of the relationship between human rights treaties and state practice.

**Lijnzaad, L.** (1995). *Reservations to UN-Human Rights Treaties: Ratify and Ruin?* The Hague: Martinus Nijhoff.

Expert monograph on the concept of reservations and their impact on international human rights law.

**Shelton, D.** (2006). *Remedies in International Human Rights Law* (2nd edn). Oxford: Oxford University Press.

The principal book reviewing remedies available for infringements of human rights.

**Shelton, D.** (2014). *Advanced Introduction to International Human Rights Law*. Cheltenham: Edward Elgar.

This is a very good introduction to international human rights law and the international regime.

**Smith, R.** (2011). *Textbook on International Human Rights* (5th edn). Oxford: Oxford University Press.

A basic introduction to international human rights law.

**Steiner, H., Alston, P., and Goodman, R.** (2007). *International Human Rights in Context: Law, Politics, Morals* (3rd edn). Oxford: Oxford University Press.

Comprehensive reader, with interpretation, on international human rights, focused primarily on legal and related philosophical issues.

**Symonides, J.** (ed.) (2003). *Human Rights: International Protection, Monitoring, Enforcement*. Aldershot: Ashgate and Burlington, VT: UNESCO.

Expert essays on the problems and processes of monitoring international human rights law.



#### WEB LINKS

<http://www.ohchr.org> The website of the United Nations Office of the High Commissioner for Human Rights (OHCHR) provides access to all UN human rights treaties as well as the texts of all Committee (treaty monitoring body) reports. It is easy to navigate around and contains copious links to additional materials.

<http://www.bayefsky.com> Professor Bayefsky's website focuses on the work of the treaty monitoring bodies of the United Nations. It has a particularly useful thematic search facility.

<http://www.icc-cpi.int> The website of the International Criminal Court provides access to the documentation surrounding the current warrants, and pre-trial and trial proceedings.

<http://www.echr.coe.int> The website of the European Court of Human Rights includes a search engine facilitating access to the jurisprudence of the Court. This website is included as the European Court has produced the greatest volume of regional jurisprudence.



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