



Human Rights Violations and the Limitations of International Law: A Critical Examination of Enforcement Gaps, Sovereignty Conflicts, and the Path Forward

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Abstract: International law has long been heralded as the primary framework through which the global community seeks to protect human rights, maintain peace, and promote justice. Yet persistent and widespread human rights violations across the globe reveal a profound gap between the aspirational norms codified in international instruments and the practical realities of enforcement. This paper undertakes a critical analysis of the structural, political, and legal limitations that impede the effective application of international human rights law. Drawing on case studies from Myanmar, Syria, China, and Sudan, as well as a theoretical engagement with state sovereignty, selective enforcement, and institutional inadequacy, this paper argues that the existing international legal order is fundamentally constrained by the primacy of state sovereignty, the political interests of powerful states, and the absence of a robust enforcement mechanism. The paper further examines the role of the International Criminal Court, the United Nations Human Rights Council, and regional human rights bodies, evaluating both their contributions and shortcomings. Finally, this paper proposes a series of reforms — including universal jurisdiction expansion, civil society empowerment, and the reinterpretation of sovereignty as responsibility — as pathways toward a more effective and equitable international human rights regime.

Keywords: human rights, international law, state sovereignty, enforcement gap, International Criminal Court, United Nations, Responsibility to Protect, impunity



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1. Introduction

The post-World War II international order was constructed upon a foundational promise: that the atrocities witnessed during the Holocaust and the broader catastrophe of global conflict would never again be permitted to occur without international response. This promise gave birth to the Universal Declaration of Human Rights (UDHR) in 1948, the Geneva Conventions, the International Covenant on Civil and Political Rights (ICCPR), and scores of other instruments designed to codify and protect the fundamental rights of every human being, regardless of nationality or geography. Seventy-five years later, the question must be asked with uncomfortable urgency: has international law kept that promise?

The evidence suggests a deeply mixed and, in many respects, discouraging answer. Genocides have unfolded in Rwanda, Bosnia, Darfur, and Myanmar in the decades since the Genocide Convention was adopted. Systematic torture, enforced disappearances, sexual violence as a

weapon of war, and the persecution of ethnic and religious minorities continue to occur with troubling regularity in states that are formal signatories to the very treaties that prohibit such conduct. The international community often reacts slowly, selectively, and inadequately, constrained not merely by logistical challenges but by structural features of the international legal system itself.

This paper argues that the limitations of international law in protecting human rights are not merely incidental failures attributable to political will or resource deficiencies. Rather, they are deeply embedded in the architecture of the international legal order, which continues to privilege state sovereignty as the organizing principle of global relations. The tension between sovereignty and human rights protection is not new, but its consequences are increasingly visible and increasingly deadly. Without substantive reform — both normative and institutional — the international human rights regime risks becoming an elaborate system of promises that powerful states can ignore and weak states are unable to implement.

The analysis proceeds in the following order. Section 2 provides a historical and theoretical overview of international human rights law. Section 3 examines the concept of state sovereignty and its role as an obstacle to enforcement. Section 4 analyzes the structural weaknesses of key international institutions. Section 5 presents case studies illuminating these failures in practice. Section 6 explores emerging mechanisms and reform proposals. Section 7 concludes.

2. Historical and Theoretical Framework of International Human Rights Law

The modern international human rights framework emerged from the ruins of the Second World War. The Nuremberg Trials of 1945 and 1946 established the radical proposition that individuals — including heads of state — could be held personally accountable under international law for crimes against humanity and war crimes, piercing the veil of state sovereignty that had previously insulated leaders from international legal accountability (Cassese 3). The UDHR, adopted by the United Nations General Assembly on 10 December 1948, proclaimed a common standard of achievement for all peoples and all nations, articulating rights that were revolutionary in their scope and ambition, from the right to life and freedom from torture to the rights to education, work, and participation in cultural life (United Nations, "Universal Declaration").

The UDHR was followed in subsequent decades by a proliferating body of treaty law. The twin covenants of 1966 — the ICCPR and the International Covenant on Economic, Social and Cultural Rights (ICESCR) — translated the UDHR's principles into binding treaty obligations, establishing monitoring committees and optional complaint mechanisms (Alston and Goodman 138). The Convention Against Torture (CAT), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) further elaborated specific dimensions of human rights protection, creating a dense web of international obligations.

Theoretically, international human rights law occupies an ambiguous position within the broader field of international law. Traditional international law, rooted in the Westphalian order, treats states as the primary subjects and objects of legal regulation, with individuals largely invisible as international legal actors. Human rights law disrupts this model by asserting that individuals have rights that exist independently of, and potentially against, the state (Donnelly 3). This creates an inherent tension: international human rights law seeks to regulate the conduct of states toward their own citizens, thereby encroaching upon the domestic jurisdiction that the Westphalian system treats as sacrosanct.

Jack Donnelly's concept of the relative universality of human rights acknowledges that while human rights norms have achieved significant global acceptance in formal terms, their implementation remains deeply conditioned by political, cultural, and economic contexts (Donnelly 89). This gap between formal acceptance and substantive implementation is a central puzzle that this paper seeks to explain.

3. State Sovereignty and the Enforcement Deficit

3.1 Sovereignty as a Structural Barrier

Article 2(7) of the United Nations Charter provides that nothing in the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state. This provision, designed to protect state autonomy from great-power intervention, has historically served as a powerful shield for governments engaged in gross human rights violations against their own populations. The doctrine of non-interference has been invoked by states ranging from China and Russia to smaller authoritarian regimes to deflect international scrutiny and resist accountability.

The tension between sovereignty and human rights is not merely rhetorical. It has concrete institutional consequences. The UN Security Council, which bears primary responsibility under the Charter for the maintenance of international peace and security and which alone can authorize coercive enforcement measures, operates under a veto system that allows any of the five permanent members (P5) — China, France, Russia, the United Kingdom, and the United States — to block action regardless of the scale of human rights violations at stake. This structural feature has rendered the Security Council paralyzed in the face of crises involving states protected by or allied with P5 members (Hehir 47).

3.2 The Responsibility to Protect and Its Limitations

The international community attempted to address the tension between sovereignty and human rights through the development of the Responsibility to Protect (R2P) doctrine, endorsed by the World Summit in 2005. R2P posits that sovereignty entails responsibility: states have a primary responsibility to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, and when they fail to do so, the international community has a responsibility to act (International Commission on Intervention and State Sovereignty 11). The doctrine represented a significant normative shift, reframing sovereignty as conditional rather than absolute.

However, the implementation of R2P has been inconsistent and politically fraught. The intervention in Libya in 2011, authorized under Security Council Resolution 1973, was widely regarded as exceeding its mandate, transforming from a protection mission into a regime change operation that deeply alienated Russia and China and effectively foreclosed the use of R2P in subsequent crises, most notably Syria (Hehir 112). The failure to invoke R2P in Syria, where government forces used chemical weapons against civilian populations, exposed the doctrine's dependence on great-power consensus and its vulnerability to geopolitical interests. As Gareth Evans, one of R2P's architects, has acknowledged, the doctrine's implementation has been deeply inconsistent and subject to political manipulation (Evans 74).

4. Structural Weaknesses of International Institutions

4.1 The International Criminal Court

The establishment of the International Criminal Court (ICC) by the Rome Statute in 1998, entering into force in 2002, represented a landmark development in international criminal law. For the first time, a permanent international tribunal existed to prosecute individuals for genocide, crimes against humanity, and war crimes, embodying the principle that no one — including heads of state — was above the law (Schabas 15). The ICC was designed to complement national jurisdictions, intervening only when states were unwilling or unable to prosecute their nationals.

Despite its institutional significance, the ICC has been subject to sustained and, in several respects, well-founded criticism. The Court's jurisdiction is limited to states parties, meaning that nationals of non-party states — including the United States, China, Russia, and India — can only be referred to the Court by the Security Council, which is subject to the veto dynamics described above. This jurisdictional gap effectively shields citizens of the world's most powerful states from

ICC prosecution unless they commit crimes in the territory of a state party, a limitation that is both legally significant and politically symbolically damaging (Stahn 88).

The ICC has also faced persistent allegations of selective prosecution, with critics noting that the majority of its early cases involved African defendants, leading to accusations that the Court functions as an instrument of neo-colonial justice rather than universal accountability (Mamdani 19). While the Court has made efforts to broaden its geographical focus — including investigations into situations in Georgia, Afghanistan, and the Philippines — the perception of bias has damaged its legitimacy and contributed to withdrawals and threats of withdrawal by several African states. Moreover, the ICC's record of enforcement has been hampered by the refusal of states, including South Africa and Jordan, to arrest indicted fugitives present on their territories, revealing the Court's dependence on state cooperation and its inability to compel compliance.

4.2 The UN Human Rights Council

The UN Human Rights Council (HRC), established in 2006 to replace the widely criticized Commission on Human Rights, was designed to provide a more credible and effective forum for the promotion and protection of human rights. Its Universal Periodic Review (UPR) mechanism, which subjects all UN member states to periodic human rights scrutiny, represents an innovative approach to creating a comprehensive and non-discriminatory review process (Alston and Goodman 740).

Nevertheless, the HRC has been subject to similar criticisms of politicization and selectivity. The Council's membership has included states with documented human rights abuses, including Saudi Arabia, China, Venezuela, and Russia, raising fundamental questions about the credibility of a body charged with protecting human rights when its members systematically violate them. The Council's response to serious human rights situations has been inconsistent, with resolutions frequently blocked or diluted by regional blocs protecting their members. Israel has been the subject of a disproportionate number of resolutions relative to other states with comparable or worse records, reflecting the influence of political coalitions rather than principled human rights analysis (Freedman 45).

4.3 Regional Human Rights Bodies

Regional human rights systems — the European Court of Human Rights (ECtHR), the Inter-American Court of Human Rights (IACtHR), and the African Court on Human and Peoples' Rights — have in many respects provided more effective protection than global mechanisms, benefiting from greater normative coherence and cultural legitimacy within their respective regions. The ECtHR in particular has established an impressive jurisprudence across a wide range of rights, and its judgments, while not directly enforceable, are complied with by most member states of the Council of Europe in the vast majority of cases (Leach 14).

However, regional systems face their own challenges. The African human rights system remains under-resourced and lacks enforcement power, with the African Union historically reluctant to criticize member states. The Inter-American system has made significant contributions to accountability for past violations but faces persistent challenges in enforcing reparations orders against resistant states. Most significantly, the regions of Asia, the Middle East, and the Pacific lack functioning regional human rights courts, leaving hundreds of millions of people without access to regional mechanisms.

5. Case Studies: The Gap Between Law and Reality

5.1 Myanmar and the Rohingya Crisis

The persecution of the Rohingya Muslim minority in Myanmar provides a stark illustration of the enforcement gap in international human rights law. The Rohingya, who have long faced discrimination and statelessness in Myanmar, were subjected to a military campaign in 2017 that the United Nations Fact-Finding Mission described as bearing the hallmarks of genocide,

including mass killing, sexual violence, and the forced displacement of approximately 700,000 people to Bangladesh (United Nations, "Report of the Independent International Fact-Finding Mission" 14). The Mission explicitly recommended that senior military commanders, including Commander-in-Chief Min Aung Hlaing, be investigated and prosecuted for genocide, crimes against humanity, and war crimes.

Despite this clear documentation and legal characterization, the international response was limited. China and Russia, both permanent Security Council members, blocked meaningful action at the Council level, citing concerns about interference in Myanmar's internal affairs. The ICC launched a preliminary investigation based on the deportation of Rohingya to Bangladesh, a state party, but the scope of the Court's jurisdiction over crimes committed on Myanmar's territory remains constrained. The International Court of Justice (ICJ) case brought by Gambia against Myanmar under the Genocide Convention resulted in provisional measures ordering Myanmar to prevent further genocidal acts, but compliance with these measures was limited, and the military coup of February 2021 further complicated accountability efforts (International Court of Justice, "Application of the Convention"). The Rohingya case exemplifies the tragic pattern in which thorough documentation, clear legal prohibitions, and institutional mechanisms prove insufficient to prevent or punish atrocity crimes when powerful geopolitical interests work against accountability.

5.2 Syria and the Failure of the Security Council

The Syrian conflict, which began in 2011 and has resulted in the deaths of an estimated 500,000 people and the displacement of approximately 13 million, represents perhaps the most dramatic failure of the international human rights system in recent memory. Documented violations include the use of chemical weapons against civilian populations, indiscriminate aerial bombardment of hospitals and civilian infrastructure, systematic torture in detention facilities, and the use of starvation as a weapon of war — all of which constitute clear violations of international humanitarian law and international human rights law (Human Rights Watch, "World Report 2022" 587).

The Security Council's response was paralyzed by successive vetoes from Russia and China, which blocked resolutions that would have authorized humanitarian access, referred the situation to the ICC, or imposed sanctions on the Syrian government. Between 2011 and 2022, Russia and China jointly vetoed seventeen Security Council resolutions on Syria (Security Council Report 3). This pattern of gridlock illustrates the fundamental flaw at the heart of the UN system: the very states whose cooperation is most essential to enforcement are those most likely to use their veto power to shield allies and protect geopolitical interests. The "Uniting for Peace" mechanism, which allows the General Assembly to act when the Security Council is blocked, was invoked but produced only non-binding resolutions with limited practical impact.

5.3 China and Xinjiang

The situation in China's Xinjiang region, where the government has been documented as subjecting Uyghur Muslims and other Turkic minorities to mass arbitrary detention, forced labor, surveillance, and cultural and religious erasure, presents a different but equally challenging dimension of the enforcement problem. A leaked UN report, subsequently published in full, concluded that serious human rights violations had been committed in Xinjiang and that these violations may constitute international crimes, particularly crimes against humanity (Office of the United Nations High Commissioner for Human Rights 44).

China's status as a permanent Security Council member and one of the world's largest economies renders formal international legal accountability essentially impossible through existing mechanisms. Economic dependencies, diplomatic influence, and China's ability to mobilize a bloc of states in its support at the HRC have effectively shielded it from meaningful institutional scrutiny. The episode illustrates that international human rights law, as currently constituted, is systematically incapable of holding the world's most powerful states accountable for the treatment

of their own populations — a gap that fundamentally undermines the universality claims upon which the entire system is premised.

5.4 Sudan and Accountability for Darfur

The ICC's indictment of Sudanese President Omar al-Bashir in 2009 for genocide, crimes against humanity, and war crimes in connection with the Darfur conflict represented a landmark assertion of international criminal accountability. It was the first time a sitting head of state had been indicted by the ICC. Yet al-Bashir traveled extensively to other countries — including ICC member states — without being arrested, exposing the Court's inability to enforce its own arrest warrants against politically protected individuals (Stahn 210). His eventual removal from power in 2019 following a domestic coup, and the subsequent transitional government's negotiations with the ICC, illustrated that accountability sometimes comes through domestic political change rather than international legal mechanisms — a reminder that international law is often most effective when it reinforces rather than substitutes for domestic political processes.

6. Emerging Mechanisms and Reform Proposals

6.1 Universal Jurisdiction

Universal jurisdiction — the principle that national courts may prosecute perpetrators of certain international crimes regardless of where the crime was committed or the nationality of the perpetrator or victim — offers a promising mechanism for filling the accountability gap left by international tribunals. Belgium, Spain, and Germany have enacted broad universal jurisdiction legislation, and German courts have in recent years convicted Syrian government officials for crimes against humanity committed in Syria, providing a form of accountability that the international system had failed to deliver (Weiss 88). The expansion of universal jurisdiction, accompanied by political will to use it, could significantly increase the costs of impunity for perpetrators of atrocity crimes.

6.2 Civil Society and Transnational Advocacy

Non-governmental organizations (NGOs) and transnational advocacy networks play an increasingly important role in the international human rights system, documenting violations, providing evidence to international tribunals, mobilizing public opinion, and pressuring states and institutions to act. Organizations such as Human Rights Watch, Amnesty International, and the Syrian Archive have developed sophisticated documentation methodologies that have contributed to criminal investigations and proceedings. The growing use of open-source intelligence and digital forensics by civil society organizations has significantly enhanced the evidentiary foundation for accountability processes (Kaye 52). Strengthening civil society participation in international and national human rights processes, including through greater formal standing before international bodies, would enhance both accountability and legitimacy.

6.3 Reforming the Security Council

The most structurally significant reform that could enhance the effectiveness of international human rights enforcement would be modification of the Security Council veto, at minimum restricting its use in situations involving atrocity crimes. The French-Mexican initiative, which proposes a voluntary code of conduct among permanent members to abstain from voting in cases of mass atrocities, has garnered support from over one hundred states (Amnesty International, "Security Council" 3). While formal amendment of the Charter's veto provisions is unlikely in the near term, building normative pressure for voluntary restraint represents a realistic incremental approach.

6.4 Sovereignty as Responsibility

A normative reconstruction of sovereignty — from an absolute entitlement to non-interference to a conditional right contingent upon the fulfillment of fundamental obligations to populations — offers the most theoretically coherent framework for reconciling sovereignty and human rights.

The R2P doctrine represents an incomplete step in this direction. Building on it through consistent application, clearer trigger criteria, and broader multilateral support could over time shift the normative environment in which states operate, increasing reputational and political costs for rights violations even in the absence of formal legal accountability (Evans 152). Linking economic development assistance, trade relationships, and multilateral diplomatic recognition to human rights performance creates additional incentives for compliance that operate through channels other than formal legal enforcement.

7. Conclusion

International law has undeniably contributed to the global recognition of human rights as a fundamental dimension of legitimate governance. The proliferation of treaty obligations, monitoring mechanisms, international courts, and human rights discourse represents a genuine normative achievement. Yet this paper has demonstrated that the gap between international human rights norms and their enforcement remains wide, persistent, and structurally rooted. The primacy of state sovereignty, the veto dynamics of the Security Council, the jurisdictional limitations of international tribunals, the politicization of monitoring bodies, and the protection afforded to powerful states by geopolitical alliances combine to produce a system in which impunity is the norm and accountability the exception.

The case studies examined — Myanmar, Syria, China, and Sudan — illustrate not aberrational failures but systemic patterns. They reveal that international human rights law functions most effectively as a constraint on weak states and least effectively in the contexts where protection is most urgently needed: against powerful states or against governments shielded by powerful patrons. This asymmetry is not merely a moral failing but an existential challenge to the legitimacy of the international legal order itself.

Reform is possible but requires sustained political commitment from states, civil society, and international institutions. The expansion of universal jurisdiction, the empowerment of civil society actors, voluntary restraint of the veto, and the normative reconstruction of sovereignty as responsibility all offer partial but meaningful contributions to a more effective international human rights regime. Ultimately, the protection of human rights cannot rest on international law alone; it requires political will, economic incentives, cultural change, and the strengthening of domestic institutions and rule of law in states where violations occur. International law can create frameworks, establish norms, and provide accountability pathways, but it cannot substitute for the political commitment of states and peoples to make human dignity the practical foundation of governance.

The promise of 1948 — never again — remains to be fulfilled. Fulfilling it requires an honest reckoning with the limitations of existing international legal mechanisms and a willingness to pursue the reforms necessary to make them adequate to the scale of the challenge. The stakes, measured in human lives and human dignity, could not be higher.

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